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LTV BANKRUPTCY

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON

OVERSIGHT ON THE LTV CORPORATION FILING FOR BANKRUPTCY UNDER CHAPTER 11 OF THE FEDERAL BANKRUPTCY CODE

CLEVELAND, OHIO
JULY 28, 1986

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LTV BANKRUPTCY

MONDAY, JULY 28, 1986

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Cleveland, OH.

The committee met at 9 a.m. at Karlin Hall, Cleveland, OH, Senator Howard M. Metzenbaum presiding.

Present: Senator Specter.

Also present: Representatives Mary Rose Oakar, Dennis Eckart, Louis Stokes, Edward Feighan, and James Traficant.

Staff present: David Starr, legislative assistant, and Ellen Bloom, legislative assistant.

OPENING STATEMENT OF SENATOR HOWARD M. METZENBAUM

Senator METZENBAUM. This meeting will come to order. I'd like to get the hall quieted down, if you would, please. Thank you. Can we quiet down a bit?

On July 17, LTV Corp. filed for bankruptcy under chapter 11 of the Federal Bankruptcy Code. We meet here this morning as an official meeting of the Judiciary Committee of the U.S. Senate. We meet here under authority of Strom Thurmond, chairman of that committee. And I'm happy to welcome, Senator Arlen Specter of Pennsylvania, Congressman Louis Stokes, Cleveland, Congressman Dennis Eckart, Congresswoman Mary Oakar, and Congressman Ed Feighan.

Senator Glenn is not with us. He had a previous commitment and he could not join us, but I know he is with us in spirit. And at the appropriate point we will include his statement in the record.

The LTV bankruptcy is the largest bankruptcy filing in the U.S. history in terms of company size and debts owed. The bankruptcy filing halts payments of $4 billion to more than 20,000 creditors. Many of those creditors, over and above the 20,000 creditors, are the people that we find assembled here in this room, the retirees, who themselves have been left out in the cold. LTV is the Nation's second largest steel manufacturer, a major defense contractor and the 43d largest industrial company in the country.

But we are not here today because the bankruptcy of a large corporation is causing concern on Wall Street or inconveniencing its creditors. We're here today because of the devastating impact that the backruptcy is having on thousands of company employees, retirees and their families.

Let me just take a moment to read from a letter that I received at my home. This is a letter from a Republic Steel retiree who has

lost her health insurance. Her husband has bone cancer and prescription bills of $200 a month. Says she:

> I am 69. He worked, I stayed home, tried to run the house and raise our children the way they should be raised, thinking in our old age that we at least would be able to live decently. Mr. Metzenbaum, do you know if my husband would have to go to the hospital, it would take our home that we worked all our lives to get.

We would have no difficulty, I'm certain, in hearing from dozens of you in this audience and others who are not here, for similar kinds of stories. I know of no particular one act or corporation that has created as much concern and as much fear as has the action of LTV. Today we will especially focus on the termination of health and life insurance benefits.

We need to clarify the bankruptcy's impact on the pensions and benefits of LTV workers and retirees. It was only fitting that we hold the hearing in Cleveland, the home of LTV Steel operations and the home of thousands of LTV-Republic workers and retirees. But we could have held the hearing in Youngstown, because the problem is every bit as acute as it is here. In fact, I know that Congressman Traficant intended to be with us—and I see he has joined us.

I have been authorized by the chairman to conduct this hearing and I want to say a word about our bankruptcy laws. Our bankruptcy laws are intended to protect the company from its creditors in order to give the company an opportunity to reschedule its debt, to let a company reorganize in order to become a viable company.

I was a party to the drafting of the Bankruptcy Act Amendments in 1984 and I can say with certainty that it was never intended that the Bankruptcy Act be used for the purpose of terminating the rights of employees or the rights of the retirees without a court order.

We will have testimony here today by the outstanding authority on bankruptcy law, the outstanding authority in the entire country, who will testify to that very point. The act specifically says that the contract is to be lived up to until such time as a court order to the contrary. There is no such court order.

Because the company has not lived up to that language in the law, I will attempt to press forward in a special parliamentary procedure, a bill that I have introduced on the floor of the U.S. Senate as of Friday. Senators Glenn and Byrd and Specter and Heinz and Durenburger and others are cosponsors of that bill. And that bill specifically provides that LTV will pay the retirees health and life insurance benefits until a court order to the contrary. The court has the right to make such an order but there is no such order at the present time.

I believe that LTV's action was an act of extraordinary insensitivity to the company's 78,500 retirees. These are the people who built Republic and its successor company, LTV. Without them there would be no company.

We will hear from Blue Cross and Blue Shield today as to whether or not an interim procedure can be arranged, and I think that may be possible but this moment we have not resolved that issue. But on an interim basis I would hope that we would keep those benefits operable so that no one would be left out in the cold.

LTV has not negotiated its termination of benefits with its retirees. Its unilateral termination, in my opinion, violates the law. And in order to reinforce our position, as I previously indicated, we will go to the floor of the Senate and attempt to clarify law on this subject.

I look forward to hearing the testimony from our witnesses. We will use an extraordinary procedure today and with the consent of the Members of Congress present, I would hope that they would not mind if I take an opening statement from Senator Specter. Then we would hear from Lynn Williams, president of the United Steelworkers, who has flown in specially this morning, Richard Trumka, the president of the United Mineworkers, both who have gone way out of their way to be here with us this morning but must get back to their other responsibilities. And then we will take the opening statements from the Members of Congress. I hope you will not be offended by that procedure.

Senator Specter, we are happy to have you with us this morning. Senator Specter and I worked together on many matters in the U.S. Senate.

OPENING STATEMENT OF SENATOR ARLEN SPECTER

Senator SPECTER. Thank you very much, Senator Metzenbaum. At the outset, I commend my distinguished colleague, Senator Metzenbaum, for convening these hearings so promptly. Like Mr. Trumka and Mr. Williams I have rearranged my schedule. I am due in Lancaster, PA at noon but felt that these matters were of such tremendous importance that I wanted to join Senator Metzenbaum at this hearing.

As Senator Metzenbaum has pointed out, this hearing could have been held in Youngstown, as well as Cleveland. Or it could have been held in Pittsburgh. Or it could have been held in Sharon, PA or it could have been held in Monongahela Valley because the impact of 78,500 retirees is very profound, not only in steel but also in coal.

One of the witnesses here today, Richard Trumka, the distinguished president of the United Mineworkers, will testify about the impact very, very close to home, again, with his father, who is a retiree.

And this is a matter of tremendous, tremendous importance. I think that Senator Metzenbaum has put his finger on the critical aspects of the law which Senator Metzenbaum and I and the Judiciary Committee and the Members of Congress from Ohio here today worked on when we responded to the Supreme Court's decision in the *Bildisco* case. And we were very plain, that there was no legality in unilateral termination of pension or health benefits.

I think it is an outrage that notices have been sent to really terrify people about such change. There is a panel which is at work on this subject at the present time and its report appears in abbreviated form in this morning's edition of the New York Times. And it's very direct in articulating the consequences that retirees face when they get these kinds of termination notices. It says this: The panel in its report says terminating the plans can cause "unsettling ef-

fects for workers and retirees" including "psychology, trauma" and urges the Government take steps to curb the practice.

That's one reason why it is so important that this hearing is going forward today to give reassurance to the retirees. Professor Countryman will testify about the details of this law, which does guarantee those rights.

For a moment or two I want to talk about some of the broader aspects of what this chapter 11 proceeding means and its potential devastating impact, not only for the State of Ohio and not only for the State of Pennsylvania, and not only for the steel industry and not only for the coal industry, but for the United States of America.

We have seen a disastrous shift away from the steel industry which has lost $7 billion since 1982, which has had a decline in employment of 450,000 since 1979, to 200,000 at the present time. And the steel industry is vital for national defense. We are on our way now to finding an end to the American steel industry which will have disastrous consequences. Where are we going to have our tanks made in time of national defense—in Korea, in Taiwan? Where are we going to have the steel made for our aircraft carriers—in Brazil?

We need a steel industry not only for the economic vitality of Pennsylvania and Ohio, we need a steel industry for the national defense of this country. We have seen the steel industry pillaged and tradeoffs have been made by the Department of Defense and by the Department of State for foreign policy considerations. We have a Department of Defense budget of $292 billion but I would suggest to you that it is closer to $392 billion when you take into account the losses to the steel industry, to the coal industry, to the cement industry, and other industrial assets that this country is trading away.

And Senator Metzenbaum has joined me in cosponsoring S. 1655—which will be coming to the floor shortly according to a commitment made by Majority Leader Robert Dole—which open the Federal courts to stop dumped, subsidized steel and other products from coming into this country in violation of our trade laws. Not only steel, it is coal, cement, and many, many other products.

So the incident of LTV is one step. Wheeling-Pittsburgh—United States Steel Corporation changed its name to USX. And I suggest to you, ladies and gentlemen, that that is an event almost as cataclysmic as the chapter 11 proceeding for LTV. Because what masks is the demise of the steel industry, as United States Steel has diversified into Texas Gas, into Marathon Oil and other conglomerates. We need to put this country back on track and stop the subsidized and dumped steel from coming into this country and to see to it that American industry and American jobs are preserved.

That's why I am glad to be here with Senator Metzenbaum, who will let no grass grow under his feet. They say that Congress can't act—well, it took 11 days to convene this hearing and we may have some more. I was talking to Mr. Trumka about the meeting in Monongahela Valley. And I will provide the same excellent service for Senator Metzenbaum that he has for me here today.

I am glad to be here and look forward to the testimony.

Senator METZENBAUM. Thank you, Senator Specter.

As I indicated, Senator Glenn is out of the city and will not be able to be with us. Mr. George Krumbhaar is here serving as his personal representative. At this point we will include his entire statement in the record.

[The prepared statement of Senator Glenn follows:]

PREPARED STATEMENT OF SENATOR JOHN GLENN

I am a cosponsor of S. 2690, legislation to require the LTV Corporation to resume providing health and life insurance coverage for its retirees, unless and until a court of competent jurisdiction tells them to cease. I believe this legislation is necessary in order to protect the 78,000 LTV retirees nationwide, including 31,000 in Ohio, whose benefits were abruptly terminated July 17 when the corporation filed their Chapter 11 petition. I urge my colleagues in the Senate to support this legislation.

Termination of health and life insurance benefits has created an intolerable situation for LTV retirees. It has put at risk the very men and women who spent their lives working to make LTV strong. Since many of these retirees are under 65 and consequently not eligible for medicare, they are heavily dependent upon these insurance benefits.

Last week I, along with Senator Metzenbaum, held a meeting in my office with LTV, the health insurers, and the United Steelworkers Union. Senator Metzenbaum and I both urged all parties to take swift action to resolve this situation. Since then work stoppages have occurred in several of LTV's facilities across the country; I understand and respect the strong feelings and sense of community that has led the workers to take this action.

The LTV Corporation believes that, when it filed under Chapter 11, it was legally required to treat retirement health and life insurance benefits like all other obligations and suspend payment. While I do not believe that Congress intended for our bankruptcy laws to have this effect, our bill would allow the company to present this argument to the court; I would hope that the court would rule expeditiously on this very important legal issue. But, most importantly, in the interim under our bill the LTV retirees would have insurance coverage until the matter is resolved by the Court.

We do not have figures on LTV's financial condition, so we do not know how much of a burden this bill would impose. That is for the court to decide. The legislation, however, would allow the corporation to go into court and attempt to show that it could not pay health and life benefits to retirees without going into Chapter 7, i.e., liquidation of the corporation. Obviously, if LTV believes that payment of these benefits would force it into Chapter 7, then it should immediately apply to the bankruptcy court for suitable, relief, to prevent this from happening, As an example of such quick relief already granted, I note that LTV obtained permission from the bankruptcy court within one day for the company to continue health and life insurance benefits for its active employees; I assume that it reasonably could obtain equally rapid relief in a bankruptcy court as necessary for procedures covered by this bill.

I believe it is imperative that we enact this legislation to resolve this situation before the company's financial situation worsens even more and the whole steel industry faces yet another setback. I urge my colleagues to vote for it as a reasonable interim measure to address this very serious problem for the whole nation.

Senator METZENBAUM. I also want to publicly express our appreciation to Karlin Hall and Joe Kocab, who was instrumental in the function of this facility. We wanted to be certain that we had a meeting that was in the community where the workers live and work. We are here as guests of Karlin Hall and on behalf of the Judiciary Committee of the Senate. I just want to say thank you for opening your doors and making it possible for us to have this meeting here this morning.

As I indicated before, we will hear from Lynn Williams and Richard Trumka, then we will take some opening statements from Members of Congress.

Mr. Williams, we are happy to have you with us, the international president of the United Steelworkers of America.

STATEMENT OF LYNN WILLIAMS, INTERNATIONAL PRESIDENT OF THE UNITED STEELWORKERS OF AMERICA

Mr. WILLIAMS. Thank you very much, Senator Metzenbaum, Senator Specter, Congresspersons Oakar, Eckart, Stokes, Feighan, and Traficant. We appreciate very much the opportunity that the Judiciary Committee and you, Senator Metzenbaum, and your colleague, Senator Specter, have provided to us and to the retirees who are gathered here in such numbers for the opportunity to explain what has happened to some degree, to express our deep concern about what has happened, the travail and difficulty that flows from this decision by LTV Steel in this circumstance.

I would also like to thank you personnally for convening this session, but particularly the Congresspersons who have stepped aside for my convenience and my colleague, Richard Trumka.

This is a week, as I think you all know, of considerable importance to my union and a number of our members. And there are a great many things happening this week.

I really appreciate the opportunity to speak at the beginning of the hearing and, of course, to be able to be associated with as distinguished a trade union leader in this country as Richard Trumka. It certainly is a great privilege to appear before you and the distinguished leadership of Senator Metzenbaum, Senator Specter, and others in this time of crisis for the steelworkers, for retired steelworkers and for the steel industry.

This is an unconscionable decision, as far as we are concerned, that has been made by LTV Steel. We are not entirely sure exactly who is reponsible for that decision. Obviously, the company must bear responsibility since they made it.

I must say that my own suspicion—of course I have no way of knowing exactly what the internal mechanisms of these kinds of decisions are—my own suspicion is that behind this decision we would find the banking industry and other such interests in America who it seems so often, in times of crisis, simply add to the depth of the crisis, who seem to be willing as an industry to do a great deal more for the steel industries in other countries than they have been willing to do here in our own country in this time of deep concern.

It's difficult to think of anything more important for older people than their health coverage and their life insurance. I think when we try to list, in order of priority, the concerns that older people have, I think any listing would put those concerns right at the top.

Health obviously is one of the most major concerns in life. One needs coverage in a day of enormously escalating health costs. One of the major problems we face is the way health costs increase across this country. At this point in time, to take away from people their insurance coverage, to take it away without notice, without consideration, to take away their life insurance, goes right to the heart of their concerns, their problems, right to the heart of their needs in this difficult period.

Of the 78,500 people involved in the coverage, which Senator Specter mentioned, 61,000 of those people are in the steelworkers union.

It's been mentioned, of course, that they live in concentrated communities, for the most part. I think it's important to mention two things in that regard, however. One, is that they also live all over this country, so there is an impact of this decision generally in the United States.

And second, that in some of the communities in which they are concentrated, we have steel towns which are totally dependent on the income of retired people at this point. The industry has simply been shut down, destroyed and virtually disappeared. And those communities live on the resources that the retired people have. To move into those communities and hit them in this way, in such a vital area of their welfare is, of course, devastating, not only to the people but for the communities.

I think another point which should be mentioned is that the public might think, "Oh, these people are mostly covered by Medicare anyway." Well, that's not the case. Of course, many are covered by Medicare. But according to our quick estimates, something like 40 percent or more are not covered by Medicare.

The reason, of course, again goes to this crisis in steel. The crisis in the steel industry has meant that a great many people have retired to take early pensions, that's the only thing that's been available to them.

One of the tragedies along the way is that we have all kinds of people in their best years with many skills, wanting to work, wanting to contribute to the wealth of America, and they have been pushed out on pensions. But they have been pushed out on pensions long before they are eligible for Medicare. And therefore, when this coverage is gone, they are left without coverage. And that, of course, adds to the depth of this tragedy and the concern that we have as a union about this tragedy.

We have been inundated with horror stories. One almost hesitates to repeat horror stories because in some ways, one seems to be invading the privacy and the concerns of individual people. But let me just assure all of you that they are heart rending.

Circumstances where funerals have been held up because the resources weren't available until after the funeral. Circumstances where people already had checks in their hands and they have reached in and taken the check back and stopped payment on it at the banks. Checks in that one particular incident that were really issued before July 17. Horror story upon horror story, and all of this is an unnecessary and illegal act.

We could not agree any more with you, Senator Metzenbaum, and with your colleagues and the distinguished professor, that as we read and understand the laws, as we read what has been done, the company has absolutely no right under the law to take away these payments, and has absolutely no right under the law to abrogate their collective agreement. We consider that, along with everything else, to be an unfair labor practice in the extreme for the company to have taken the actions that they have.

We think you have acted quickly and appropriately in putting forth legislation underlying what we believe the law means. We ap-

plaud your efforts and those of Senators Heinz and Specter and your colleagues. Be assured we will support you in every way we can.

And we want to urge that that legislation be dealt with as quickly as possible so that this terrible wrong may be righted and so that these thousands of people and their families may have some assurance that the world can be put back in some kind of decent perspective. When one thinks of all that these people have suffered already, this is really the ultimate indignity to now have the company reach in and take away the very source of their security about their health and their future.

So we applaud you in that action and will support you in every way we can. We thank you for the opportunity to be here with you this morning.

Senator METZENBAUM. Thank you. I have a couple of questions. I have in my hand here a program of hospital, medical benefits for eligible pensioners and surviving spouses of Jones & Laughlin Steel Corp. And pursuant to agreement of the United Steelworkers of America, effective March 1, 1983, the rights of the retirees are indeed covered by contract with the company and the steelworkers, is that correct?

Mr. WILLIAMS. Absolutely, no question. Not only in terms of the agreement which you have in your hands, Senator, from 1983, but we renegotiated the agreement with LTV Steel in the spring of this year, in March, and again covered that subject matter, both for the retirees and for the active employees.

Senator METZENBAUM. Has the company attempted to negotiate any changes in these benefits since it filed for bankruptcy on July 17?

Mr. WILLIAMS. No. There has been no attempt to negotiate. There has been communication, but the company simply announced this decision, as you know. As a matter of fact, to be entirely candid, when they phoned me and some of my senior associates to advise us of the bankruptcy, there was no mention of this decision that came to light later that day.

Senator METZENBAUM. Wheeling-Pittsburgh Steel filed for bankruptcy last year. Did that company ever suspend health benefit coverage to its workers or retirees?

Mr. WILLIAMS. No, they did not.

Mr. METZENBAUM. And as I understand it, you indicated, I think, in your opening statement that the steelworkers do support the legislation which I, Senator Specter and a number of my colleagues, have introduced?

Mr. WILLIAMS. Very actively indeed, sir. We only wish we could all join you and vote with you.

Senator METZENBAUM. So do I.

Mr. WILLIAMS. We can't think of any more direct and effective way of dealing with this.

Senator SPECTER. You might be able to join us and vote for us.

Mr. WILLIAMS. Well, that's another more complicated matter, Senator.

Senator METZENBAUM. I won't get into that.

If any of my colleagues have a question or two of Mr. Williams.

Mr. SPECTER. I have just one, Senator Metzenbaum.

Mr. Williams, I commend you for the strong position which you have taken here today and for your leadership in the past. I would ask you: Have you confronted LTV and said, "This is outrageous, it is illegal, stop"? Have you?

Mr. WILLIAMS. Yes, we have.

Senator SPECTER. What did they say?

Mr. WILLIAMS. They are hiding behind their view of the law and saying that the law requires them to do what they have done. Our entire bargaining committee—well, the senior people on the bargaining committee—met with them on the Saturday following Black Thursday and advised them directly. I have met with Mr. Hoag and Mr. Tremmaine myself and advised them similarly, both face to face and by telephone. There has been no confusion, I'm sure, on their part about our position.

Senator METZENBAUM. Apropros of that question, I might say that I have been in constant touch with David Hoag, having spoken with him as recently as last night, about 11 p.m. I made it clear to him that he was a welcome witness at this hearing. I frankly believe Mr. Hoag was willing to come but he indicated to me several times over, even when I had asked him to go back to his lawyers, that his lawyers directed him not to appear.

I believe the lawyers gave him bad advice in permitting him to terminate the health and welfare benefits of the retirees. And I think they gave him doubly bad advice in telling him not to appear here this morning. I would have hoped that he could join us today.

Do any of the members have any questions of Mr. Williams? Congresswoman Oakar.

Ms. OAKAR. Senator, I want to thank Mr. Williams for coming. I think that what you have indicated is a very, very, dramatic point and that is that it highlights a larger issue that we have tried to address to the President, and others have not cooperated, and that is, not only these retirees but about 36 million people in this country, many of whom are unemployed and too young to qualify, they are in the catch-22 age, between 50 and 61. And they are too young to qualify for Medicare. And as a result we have 36 million people who have no health insurance at all.

And second, if they can qualify for Medicare, some under Social Security, they can only pay part A or part A is covered, but they have to pay for part B and they can't afford part B. So instead of having 40 percent of their needs covered, which Medicare does, they only have about 15 percent of their needs covered, even if they can't qualify for part A Medicare.

So this is a larger picture. But I think hopefully this dramatic event will cause us to focus on the overall problem in this country of not having comprehensive health coverage for each and every American in this country.

Mr. WILLIAMS. I couldn't agree with you more, Congresswoman. You are exactly right. There is a much larger and broader issue here than this particular circumstance, of course, highlights.

Senator METZENBAUM. I think that Congressman Traficant has a question.

Mr. TRAFICANT. I have a couple of quick questions.

First of all, I want to ask if you or the union had notified or made any contact with the Justice Department and asked for any relief by the Justice Department in this matter?

Have you made an official request of the Justice Department to review the law that exists?

Senator METZENBAUM. I'm sorry. He didn't have the mike. We will move that around.

Mr. TRAFICANT. My question is, Has the union officially requested of the Justice Department, their review? Is there any here of the opinion that LTV has broken existing law and that the purge should be on the dynamics of the action they have taken under existing law even though the new law is fine and we all support it.

What has the union done to try and get the Justice Department of this country to do their job?

Mr. WILLIAMS. We have not dealt with the Justice Department. You make an interesting suggestion. We have instructed our lawyers to prepare all the necessary documents, and so on, to seek injunctive relief. We have not proceeded further with that at this moment.

We do have the feeling that Senator Metzenbaum is on the course here of a very direct action and that this may very well be the fastest way to clear up this matter.

Mr. TRAFICANT. I agree. There is one more thing I'd like to state before I turn the mike back. I believe they have broken the law. The Justice Department can enforce the law on all sides. They would be quick to move in if it was the other side of the ballgame here where the labor unions or labor organizations had, in fact, stepped one little step out of line.

So I think in addition, I'm going to support very hard these types of efforts for new legislative relief. And the union and everybody concerned should hold the Justice Department responsible, who turned their backs and were very insensitive to doing their job and enforce the law that exists. I would like to see the union assume that type of a posture. Perhaps we would have a little bit more support in the problem here.

Senator METZENBAUM. I'm very happy to welcome Mr. Richard Trumka, the national president of the United Mineworkers of America. We are happy to have you with us this morning.

STATEMENT OF RICHARD TRUMKA, NATIONAL PRESIDENT OF THE UNITED MINEWORKERS OF AMERICA

Mr. TRUMKA. Thank you, sir. On behalf of the working and retired UMW members that are present——

Mr. WILLIAMS. Excuse me, just a second. Can I thank you for the opportunity to appear here?

Senator METZENBAUM. Oh, you are planning to leave? Let's give him a hand.

Please proceed, sir.

Mr. TRUMKA. On behalf of the working and retired UMW members that are affected by this bankruptcy petition, Mr. Senator, I would like to thank you from the bottom of our hearts. I think the importance of this proceeding is highlighted by the appearance of President Williams, who is in the midst of several very, very im-

portant issues. Yet he has delayed all of those, including the negotiations with USX to be here because of his concern for his pension members and for their benefits.

The actions of the LTV Corp. raise some serious, economic, legal, and moral questions. The intentions of the LTV directors, I believe, are very clear. Through the mechanism of the bankruptcy proceeding, they intend to terminate the health care benefits of tens of thousands of retired steelworkers, autoworkers, and coal miners. This is not the only goal in their effort to make workers pay for the mistakes of management, but it is perhaps the cruelest aspect of the LTV plan.

LTV owns and operates coal mines in four UMWA districts, in the States of Pennsylvania, West Virginia, Virginia, and Kentucky. LTV's coal mines are covered by the National Bituminous Coal Wage Agreement of 1984. Under that agreement and its predecessors, going back nearly 40 years, retired coal miners received pension and health care benefits.

Perhaps I should point out that this long standing social compact was the result of tripartite negotiations among the United Mineworkers of America, the coal industry and the public, through the offices of the President of the United States. The program was created in 1946 with the signing, in the White House itself, of the historic Krug-Lewis agreement between the United Mineworkers and the U.S. Government.

The coal industry accepted the Krug-Lewis agreement and the health and welfare program after the mines were released from Government control. The expressed public interest in the establishment and maintenance of this pioneering program is in evidence from the heavy Government involvement.

The Boone report, the result of an extensive survey on health care conditions in the coal fields, under the direction of the U.S. Department of the Interior, established the scope of the task facing the welfare program.

The appointment of a U.S. Senator as an early neutral trustee to the UMWA health and welfare fund at the suggestion of the Speaker of the House of Representatives allowed the plan to begin, the much needed and long awaited payment of pensions. This unprecedented compact among labor, the Capitol, and the Government, clearly established health and welfare of coal miners as a matter of public interest.

Although LTV's action will not affect UMWA pension benefits, a brief description of contractual provisions will help in understanding its true impact.

Entitlement to health care for retirees derives from the vested pension. Once the pension is obtained, health care entitlement follows. Pension benefits are provided through two multiemployer trusts known as the UMWA 1950 pension trust and the UMWA 1974 pension trust. The 1950 pension trust provides pension benefits to miners who retired before January 1, 1976, while the 1974 pension trust established pension benefits for those who retired on or after that date.

Health care benefits for miners who retired prior to 1976 are provided by a multiemployer trust known as the United Mineworkers 50 benefit trust. LTV pensioners who retired under that pension

trust, therefore, will not be affected by LTV's callous efforts to terminate health care coverage for its retirees.

For those who retired from LTV after January 1, 1976, however, the situation is quite different. Health care benefits for those retired workers are provided directly from the employer from which they retired. LTV is legally responsible for providing health care and other mine pension benefits to approximately 1,500 UMWA coal miners who have retired under the 1974 pension plan. These people have received or will be receiving notification from LTV that their health care benefits have been terminated.

After long years of service in a dangerous and dirty job, providing profits by their labors to the corporation and its stockholders, they receive a two-page form letter from the company reneging, reneging on its lifetime guarantee.

The LTV filing has precipitated a flurry of activities in the bankruptcy court. The press reported that long lines of lawyers and clerks could be found awaiting a chance to copy the court documents. No doubt the documents will qualify for the best seller list.

Mr. Chairman, when you review the list of creditors who stand in line to receive what they consider to be due them from LTV, you will find no more deserving or more vulnerable parties than the retired workers. The large banks, the insurance companies, and corporations that do business with LTV, no doubt have legions of attorneys and accountants working long hours to insure that their financial interests are protected in the bankruptcy proceedings. I assume that LTV's directors will allocate substantial corporate resourses to promote the interests of management and the stockholders.

The workers have only themselves in the form of their union to protect their interests. And what are those interests, Mr. Chairman? They are much more than a mere financial interest represented by the long list of LTV creditors.

For those who labored long in the mines and the mills, whose health was often ruined in service to their employers, health care represents a lifeline. They did not breathe the pristine air of the corporate boardrooms, so their lungs were often filled with dust and they became progressively impaired. Unlike those who reap the profits from their labor, their work often strained their muscles and bones to the breaking point. Many, unfortunately, did fall victim to the crushed backs and limbs and left them twisted and unable to continue their labors.

Health care for these retirees is not a luxury. It's not a golden parachute, it is a vital lifeline that protects them from a free fall into disease and into misery.

Whose interests should take priority? Whose interests, Mr. Chairman? The officers and directors of the corporation who foolishly built an unmanageable debt load, the stockholders who allowed them to pursue such a dangerous course, the banks and insurance companies whose loans facilitated the go-go mergers that built the debt?

The major tenet of our economic system is that investment assumes risk; the greater the risk, the greater the return. Investors in the stockmarket generally understand this and expect no guarantees.

Workers, on the other hand, do not operate under the same rules of risk and return. We sign binding agreements that contain explicit terms and provisions. The use of the words "guarantee" and "entitled for life" and "until death" is not accidental. Such language implies no risk; no risk because none was intended. I don't believe you will find such declarations, explicit or implicit, in the stock prospectus.

In eliminating the risk, the workers agreed to fix their return. They do not share in the occasional windfall of the stockholders when stock prices soar. They have no expectation of windfall, only that which was agreed to.

So which party has the greatest claim to justice and equity, those who freely chose to assume the risk or those who sought and received guarantees for life? I believe the conclusion is self-evident.

The claim of the workers must, absolutely must, take priority. Those who would argue otherwise obviously do not understand the basic tenets of American free enterprise.

Now, consider the actions of the officers and directors of the LTV Corp. In the same week that they sent letters to thousands of retirees notifying them that they intend to renege on their written agreement and guarantee, they run ads in the major financial newspapers boasting that they are in business "today, tomorrow and thereafter and expect to be able to meet all commitments to customers."

The commitments to the retired workers are hardly mentioned and no expectations or assurances are expressed in their regard. The arrogance, the arrogance of such actions, the apparent ease with which they violate their commitments is reprehensible and repulsive. They have dishonored themselves in an amazing exhibition of base hypocrisy and moral turpitude.

I'm appalled by those in the corporate world who cannot or will not see the human suffering caused by their actions. They seem unable to peer beyond the balance sheets to see the human faces of those who labor to enrich the corporate coffers. Mr. Raymond Hay, the chairman of LTV Corp., was recently quoted in the Washington Post as saying, and I quote, "We have an opportunity to eliminate many of the warts in the system."

For the sake of his own conscience, Mr. Chairman, I hope Mr. Hay was not referring to the retired workers who helped make him a wealthy man when he was talking about removing warts from the system.

He went on to say that "We will take a little time to study our options." Mr. Hay should understand that the retirees whose lifeline he seeks to have cut, have neither the time nor options, they don't have that luxury.

If the workers could find an insurance company that is willing to underwrite the health insurance policy for them, they couldn't afford it. The premiums likely would take up a prohibitive share of their meager incomes. In many instances, the entire pension check would be consumed. If they gamble with time and lose, they may be faced with medical bills of a catastrophic nature that will destroy their life savings and leave them destitute. Neither option provides much comfort, Mr. Chairman.

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LTV says it is under enormous pressure from its creditors, banks, and vendors. No doubt this is true. But where was the hue and cry from the lenders in 1984, a year in which LTV reported a net loss of nearly $380 million when Mr. Hay took home a salary of $743,000? As losses continued to pile up in 1985, Mr. Hay reportedly volunteered to take a pay cut of 25 percent. Perhaps it was a sincere gesture of mutual sacrifice, but even with the paycut, he still draws more than a half million dollars in salary alone. I believe he might be able to afford insurance if another gesture of sacrifice, his health care benefits, were terminated. His retired workers, unfortunately, cannot.

Mr. Chairman, there is, indeed, a bankruptcy in process here. It is a moral bankruptcy that serves as an indictment of our judicial and industrial systems. If our Nation allows, at the stroke of a pen, our retirees to be denied the benefits to which they are entitled, the benefits that they earned through a lifetime of labor, the benefits that were guaranteed for the remainder of their life, then I submit we have committed a fraud on the American workers.

For many years Government and industry has told workers that they should abide by their contracts. We accept the principal. An agreement among responsible parties is binding. Now, in an impersonal form letter, we are told that it isn't.

Senator METZENBAUM. Mr. Trumka, could you wind up? We have other witnesses and I'm concerned they won't be heard.

Mr. TRUMKA. I will, sir. I am nearly completed.

Sir, a society that does not take care of its elderly, that discards its parents and its grandparents after it has ruined them from a lifetime of labor, must hang its head in shame. Can we honestly look at these men and women in the eye and tell them that there is justice in America?

Can we hold ourselves up as a shining example of freedom and morality to the rest of the world if we allow corporations to steal from our senior citizens? And I do not use the word "steal" lightly. If an individual were to take forcibly from our citizens that which LTV seeks to take by executive fiat, we would demand punishment.

We are outraged, and justifiably so, when our elderly are mugged on the streets. If we discover an organized conspiracy to rob tens of thousands of our senior citizens of their savings in one night, would we not raise up in righteous indignation? Would not the executive and judicial branches of our Government exercise their full constitutional powers to bring the perpetrators to justice? Would not the Congress call for better laws to protect the welfare of the citizens?

Mr. Chairman, I see no difference in the forcible taking from these people than a mugging.

Sir, we support this legislation wholeheartedly. Without it, people will literally die. We applaud you for your efforts and we support you, and we stand ready to take the action necessary to provide medical benefits to our parents and our grandparents, who have earned them over a lifetime of labor.

I will submit the remainder of my statement.

[The prepared statement of Mr. Trumka follows:]

PREPARED STATEMENT OF RICHARD TRUMKA

MR. CHAIRMAN:

MY NAME IS RICHARD TRUMKA. I AM THE INTERNATIONAL PRESIDENT OF THE UNITED MINE WORKERS OF AMERICA. ON BEHALF OF THE WORKING AND RETIRED UMWA MEMBERS WHO ARE AFFECTED BY THE BANKRUPTCY PETITION FILED BY THE LTV CORPORATION, I WANT TO EXPRESS OUR APPRECIATION TO YOU FOR HOLDING THIS IMPORTANT HEARING. THE ACTIONS OF THE LTV CORPORATION RAISE SOME SERIOUS ECONOMIC, LEGAL AND MORAL QUESTIONS. THE INTENTIONS OF THE LTV DIRECTORS ARE CLEAR -- THROUGH THE MECHANISM OF THE BANKRUPTCY PROCEEDING THEY INTEND TO TERMINATE THE HEALTH CARE BENEFITS OF TENS OF THOUSANDS RETIRED STEEL WORKERS, AUTO WORKERS AND MINE WORKERS. THIS IS NOT THE ONLY GOAL IN THEIR EFFORT TO MAKE WORKERS PAY FOR THE MISTAKES OF MANAGEMENT, BUT IT IS PERHAPS THE CRUELEST ASPECT OF THE LTV PLAN.

LTV OWNS AND OPERATES COAL MINES IN FOUR UMWA DISTRICTS IN THE STATES OF PENNSYLVANIA, WEST VIRGINIA AND KENTUCKY. LTV's COAL MINES ARE COVERED BY THE NATIONAL BITUMINOUS COAL WAGE AGREEMENT OF 1984. UNDER THAT AGREEMENT -- AND ITS PREDECESSORS GOING BACK NEARLY FORTY YEARS -- RETIRED COAL MINERS RECEIVE PENSION AND HEALTH CARE BENEFITS. PERHAPS I SHOULD POINT OUT THAT THIS LONG-STANDING SOCIAL COMPACT WAS THE RESULT OF TRIPARTITE NEGOTIATIONS AMONG THE UMWA, THE COAL INDUSTRY AND THE PUBLIC THROUGH THE OFFICES OF THE PRESIDENT OF THE UNITED STATES. THE PROGRAM WAS CREATED IN 1946 WITH THE SIGNING, IN THE WHITE HOUSE, OF THE HISTORIC KRUG-LEWIS AGREEMENT BETWEEN THE UNITED MINE WORKERS OF AMERICA AND THE UNITED STATES GOVERNMENT. THE COAL INDUSTRY ACCEPTED THE KRUG-LEWIS AGREEMENT, AND THE HEALTH AND WELFARE PROGRAM, AFTER THE MINES WERE RELEASED FROM GOVERNMENT CONTROL. THE EXPRESSED PUBLIC

INTEREST IN THE ESTABLISHMENT AND MAINTENANCE OF THIS PIONEERING PROGRAM IS EVIDENT FROM THE HEAVY GOVERNMENT INVOLVEMENT. THE BOONE REPORT, THE RESULT OF AN EXTENSIVE SURVEY OF HEALTH CARE CONDITIONS IN THE COAL FIELDS UNDER THE DIRECTION OF THE U.S. DEPARTMENT OF THE INTERIOR, ESTABLISHED THE SCOPE OF THE TASK FACING THE WELFARE PROGRAM. THE APPOINTMENT OF A UNITED STATES SENATOR AS AN EARLY NEUTRAL TRUSTEE OF THE UMWA HEALTH AND WELFARE FUND AT THE SUGGESTION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES ALLOWED THE FUND TO BEGIN THE MUCH NEEDED AND LONG AWAITED PAYMENT OF PENSIONS. THIS UNPRECEDENTED COMPACT AMONG LABOR, CAPITAL AND THE GOVERNMENT CLEARLY ESTABLISHED HEALTH AND WELFARE OF COAL MINERS AS A MATTER OF PUBLIC INTEREST.

ALTHOUGH LTV's ACTION WILL NOT AFFECT UMWA PENSION BENEFITS, A BRIEF DESCRIPTION OF CONTRACTUAL PROVISIONS WILL HELP IN UNDERSTANDING THE IMPACT. ENTITLEMENT TO HEALTH CARE FOR RETIREES DERIVES FROM THE VESTED PENSION. ONCE THE PENSION IS OBTAINED HEALTH CARE ENTITLEMENT FOLLOWS.

PENSION BENEFITS ARE PROVIDED THROUGH TWO MULTI-EMPLOYER TRUSTS KNOWN AS THE UNITED MINE WORKERS OF AMERICA 1950 PENSION TRUST AND THE UNITED MINE WORKERS OF AMERICA 1974 PENSION TRUST. THE 1950 PENSION TRUST PROVIDES PENSION BENEFITS TO MINERS WHO RETIRED BEFORE JANUARY 1, 1976 WHILE THE 1974 PENSION TRUST ESTABLISHES PENSION BENEFITS FOR THOSE WHO RETIRED ON OR AFTER THAT DATE. HEALTH CARE BENEFITS FOR MINERS WHO RETIRED UNDER THE 1950 PENSION TRUST ARE PROVIDED BY A MULTI-EMPLOYER TRUST KNOWN AS THE UNITED MINE WORKERS OF AMERICA 1950 BENEFIT TRUST. LTV PENSIONERS WHO RETIRED UNDER THE 1950 PENSION TRUST, THEREFORE, WILL NOT BE AFFECTED BY LTV's CALLOUS EFFORTS TO TERMINATE HEALTH CARE COVERAGE FOR ITS RETIREES.

FOR THOSE WHO RETIRED FROM LTV AFTER JANUARY 1, 1976, HOWEVER, THE SITUATION IS QUITE DIFFERENT. HEALTH CARE BENEFITS FOR THOSE RETIRED WORKERS ARE PROVIDED DIRECTLY BY THE EMPLOYER FROM WHICH THEY RETIRED. LTV IS LEGALLY RESPONSIBLE FOR PROVIDING HEALTH CARE AND OTHER NON-PENSION BENEFITS TO APPROXIMATELY 1500 UMWA COAL MINERS WHO HAVE RETIRED UNDER THE 1974 PENSION TRUST. THESE PEOPLE HAVE RECEIVED, OR WILL BE RECEIVING, NOTIFICATION FROM LTV THAT THEIR HEALTH CARE BENEFITS HAVE BEEN TERMINATED. AFTER LONG YEARS OF SERVICE IN A DANGEROUS AND DIRTY JOB, PROVIDING PROFITS BY THEIR LABOR TO THE CORPORATION AND ITS STOCKHOLDERS, THEY RECEIVE A TWO PAGE LETTER FROM THE COMPANY RENEGING ON ITS LIFETIME GUARANTEE.

THE LTV FILING HAS PRECIPITATED A FLURRY OF ACTIVITY AT THE BANKRUPTCY COURT. THE PRESS REPORTED THAT LONG LINES OF LAWYERS AND CLERKS COULD BE FOUND AWAITING A CHANCE TO COPY THE COURT DOCUMENTS. NO DOUBT THE DOCUMENTS WOULD QUALIFY FOR THE BEST SELLER LIST. MR. CHAIRMAN, WHEN YOU REVIEW THE LIST OF CREDITORS WHO WILL STAND IN LINE TO RECEIVE WHAT THEY CONSIDER TO BE DUE THEM FROM LTV, YOU WILL FIND NO MORE DESERVING OR MORE VULNERABLE PARTIES THAN THE RETIRED WORKERS. THE LARGE BANKS, INSURANCE COMPANIES AND CORPORATIONS THAT DO BUSINESS WITH LTV NO DOUBT HAVE LEGIONS OF ATTORNEYS AND ACCOUNTANTS WORKING LONG HOURS TO ENSURE THAT THEIR FINANCIAL INTERESTS ARE PROTECTED IN THE BANKRUPTCY PROCEEDINGS. I ASSUME THAT LTV's DIRECTORS WILL ALLOCATE SUBSTANTIAL CORPORATE RESOURCES TO PROMOTE THE INTERESTS OF MANAGEMENT AND THE STOCKHOLDERS. THE WORKERS HAVE ONLY THEMSELVES, IN THE FORM OF THEIR UNIONS, TO PROTECT THEIR INTERESTS.

AND WHAT ARE THOSE INTERESTS, MR. CHAIRMAN? THEY ARE MUCH MORE THAN THE MERE FINANCIAL INTERESTS REPRESENTED BY THE LONG LIST OF LTV CREDITORS. FOR THOSE WHO LABORED LONG IN THE MINES AND MILLS, WHOSE HEALTH WAS OFTEN RUINED IN SERVICE TO THEIR

EMPLOYERS, HEALTH CARE BENEFITS REPRESENT A LIFE LINE. THEY DID NOT BREATHE THE PRISTINE AIR OF THE CORPORATE BOARD ROOMS, SO THEIR LUNGS WERE OFTEN FILLED WITH DUST AND BECAME PROGRESSIVELY IMPAIRED. UNLIKE THOSE WHO REAPED THE PROFITS FROM THEIR LABOR, THEIR WORK OFTEN STRAINED THEIR MUSCLES AND BONES TO THE POINT OF BREAKING. MANY, UNFORTUNATELY, DID FALL VICTIM TO THE CRUSHED BACKS AND LIMBS THAT LEFT THEM TWISTED AND UNABLE TO CONTINUE THEIR LABORS. HEALTH CARE FOR THESE RETIREES IS NOT A LUXURY. IT IS NOT A GOLDEN PARACHUTE, BUT A VITAL LIFE LINE THAT PROTECTS THEM FROM A FREE FALL INTO DISEASE AND MISERY.

WHOSE INTERESTS SHOULD TAKE PRIORITY? THE OFFICERS AND DIRECTORS OF THE CORPORATION WHO FOOLISHLY BUILT AN UNMANAGEABLE DEBT LOAD? THE STOCKHOLDERS WHO ALLOWED THEM TO PURSUE SUCH A DANGEROUS COURSE? THE BANKS AND INSURANCE COMPANIES WHOSE LOANS FACILITATED THE "GO-GO" MERGERS THAT BUILT THAT DEBT? IT IS A MAJOR TENANT OF OUR ECONOMIC SYSTEM THAT INVESTMENT ASSUMES RISK; THE GREATER THE RISK, THE GREATER THE RETURN. INVESTORS IN THE STOCK MARKET GENERALLY UNDERSTAND THIS AND EXPECT NO GUARANTEES.

WORKERS, ON THE OTHER HAND, DO NOT OPERATE UNDER THE SAME RULES OF RISK AND RETURN. WE SIGN BINDING AGREEMENTS THAT CONTAIN EXPLICIT TERMS AND PROVISIONS. THE USE OF THE WORDS "GUARANTEE", "ENTITLED FOR LIFE" AND "UNTIL DEATH" IS NOT ACCIDENTAL. SUCH LANGUAGE IMPLIES NO RISK BECAUSE NONE WAS INTENDED. I DON'T BELIEVE YOU WILL FIND SUCH DECLARATIONS --- EXPLICIT OR IMPLICIT -- IN THE STOCK PROSPECTUS. IN ELIMINATING THE RISK, THE WORKERS AGREE TO FIX THEIR RETURN. THEY DO NOT SHARE IN THE OCCASIONAL WINDFALLS OF STOCKHOLDERS WHEN STOCK PRICES SOAR. THEY HAVE NO EXPECTATION OF WINDFALL, ONLY THAT WHICH WAS AGREED TO.

SO WHICH PARTY HAS THE GREATEST CLAIM TO JUSTICE AND EQUITY, THOSE WHO FREELY CHOSE TO ASSUME RISK OR THOSE WHO SOUGHT AND RECIEVED GUARANTEES FOR LIFE? THE CONCLUSION IS SELF-EVIDENT. THE CLAIM OF THE WORKERS MUST TAKE PRIORITY. THOSE WHO WOULD ARGUE OTHERWISE OBVIOUSLY DO NOT UNDERSTAND THE BASIC TENANTS OF AMERICAN FREE ENTERPRISE.

NOW CONSIDER THE ACTIONS OF THE OFFICERS AND DIRECTORS OF THE LTV CORPORATION. IN THE SAME WEEK THAT THEY SEND LETTERS TO THOUSANDS OF RETIREES NOTIFYING THEM THAT THEY INTEND TO RENEGE ON THEIR WRITTEN GUARANTEE, THEY RUN ADS IN THE MAJOR FINANCIAL NEWSPAPERS BOASTING THAT THEY ARE IN BUSINESS "TODAY, TOMORROW AND THEREAFTER, AND EXPECT TO BE ABLE TO MEET ALL COMMITMENTS TO CUSTOMERS." THE COMMITMENTS TO THE RETIRED WORKERS ARE HARDLY MENTIONED AND NO EXPECTATIONS OR ASSURANCES ARE EXPRESSED IN THEIR REGARD. THE ARROGANCE OF SUCH ACTIONS, THE APPARENT EASE WITH WHICH THEY VIOLATE THEIR COMMITMENTS IS REPULSIVE. THEY HAVE DISHONORED THEMSELVES IN AN AMAZING EXHIBITION OF BASE HYPOCRISY AND MORAL TURPITUDE.

I AM APPALLED BY THOSE IN THE CORPORATE WORLD WHO CAN NOT OR WILL NOT SEE THE HUMAN SUFFERING CAUSED BY THEIR ACTIONS. THEY SEEM UNABLE TO PEER BEYOND THE BALANCE SHEET TO SEE THE HUMAN FACES OF THOSE WHOSE LABOR ENRICHED THE CORPORATE COFFERS. MR. RAYMOND HAY, THE CHAIRMAN OF LTV CORPORATION, WAS RECENTLY QUOTED IN THE WASHINGTON POST AS SAYING "WE HAVE AN OPPORTUNITY TO ELIMINATE MANY OF THE WARTS IN THE SYSTEM." FOR THE SAKE OF HIS OWN CONSCIENCE, I HOPE MR. HAY WAS NOT REFERRING TO THE RETIRED WORKERS WHO HELPED MAKE HIM A WEALTHY MAN. HE WENT ON TO SAY THAT "WE WILL TAKE A LITTLE TIME TO STUDY OUR OPTIONS." MR. HAY SHOULD UNDERSTAND THAT THE RETIREES WHOSE LIFE LINE HE SEEKS TO CUT HAVE THE LUXURY OF NEITHER TIME NOR OPTIONS. IF THE WORKERS COULD FIND AN INSURANCE COMPANY THAT IS WILLING TO UNDERWRITE A HEALTH

INSURANCE POLICY FOR THEM, THEY COULDN'T AFFORD IT. THE PREMIUMS LIKELY WOULD TAKE UP A PROHIBITIVE SHARE OF THEIR MEAGER INCOMES. IN MANY INSTANCES THE ENTIRE PENSION CHECK WOULD BE CONSUMED. AND IF THEY GAMBLE WITH TIME AND LOSE, THEY MAY BE FACED WITH MEDICAL BILLS OF A CATA- STROPHIC NATURE THAT WILL DESTROY THEIR LIFE SAVINGS AND LEAVE THEM DESTITUTE. NEITHER OPTION PROVIDES MUCH COMFORT.

LTV SAYS THAT IT WAS UNDER ENORMOUS PRESSURE FROM ITS CREDITORS, BANKS AND VENDORS. NO DOUBT THIS IS TRUE. BUT WHERE WAS THE HUE AND CRY FROM THE LENDERS IN 1984, A YEAR IN WHICH LTV REPORTED A NET LOSS OF NEARLY 380 MILLION DOLLARS, WHEN MR. HAY TOOK HOME A SALARY OF 743,000 DOLLARS. AS LOSSES CONTINUED TO PILE UP IN 1985, MR. HAY REPORTEDLY VOLUNTEERED TO TAKE A PAY CUT OF 25 PERCENT. PERHAPS THIS WAS A SINCERE GESTURE OF MUTUAL SACRIFICE. BUT EVEN WITH THE PAY CUT HE WOULD STILL DRAW MORE THAN HALF A MILLION DOLLARS IN SALARY ALONE. I BELIEVE HE MIGHT BE ABLE TO AFFORD INSURANCE IF, IN ANOTHER GESTURE OF SACRIFICE, HIS HEALTH CARE BENEFITS WERE TERMINATED. HIS RETIRED WORKERS, UNFORTUNATELY, CAN NOT.

MR. CHAIRMAN, THERE IS INDEED A BANKRUPTCY IN PROCESS HERE. IT IS A MORAL BANKRUPTCY THAT SERVES AS AN INDICTMENT OF OUR INDUSTRIAL AND JUDICIAL SYSTEMS. IF OUR NATION ALLOWS AT THE STROKE OF A PEN OUR RETIREES TO BE DENIED THE BENEFITS TO WHICH THEY ARE ENTITLED, THE BENEFITS THAT THEY EARNED THROUGH A LIFETIME OF LABOR, THE BENEFITS THAT WERE GUARANTEED FOR THE REMAINDER OF THEIR LIVES, THEN I SUBMIT THAT WE HAVE COMMITTED FRAUD UPON AMERICA'S WORKERS. WE WILL HAVE BROKEN FAITH WITH THEM AND DEBASED OURSELVES. FOR MANY YEARS GOVERNMENT AND INDUSTRY HAVE TOLD THE WORKERS THAT THEY SHOULD ABIDE BY THEIR CONTRACTS. WE ACCEPT THAT PRINCIPLE; AN AGREEMENT AMONG RESPONSIBLE PARTIES IS BINDING. NOW, IN AN IMPERSONAL FORM LETTER, THEY ARE BEING TOLD THE WRITTEN GUARANTEES WERE MEAN-

INGLESS AND WITHOUT SUBSTANCE. I FIND THAT REPREHENSIBLE, IRRESPONSIBLE AND AN INVITATION TO INDUSTRIAL CHAOS.

A SOCIETY THAT DOES NOT TAKE CARE OF ITS ELDERLY, THAT DISCARDS ITS PARENTS AND GRANDPARENTS AFTER IT HAS WRUNG FROM THEM A LIFETIME OF LABOR MUST HANG ITS HEAD IN SHAME. CAN WE HONESTLY LOOK THESE MEN AND WOMEN IN THE EYES AND TELL THEM THAT THERE IS JUSTICE IN AMERICA? CAN WE HOLD OURSELVES UP AS A SHINING EXAMPLE OF FREEDOM AND MORALITY TO THE REST OF THE WORLD IF WE ALLOW CORPORATIONS TO STEAL FROM OUR SENIOR CITIZENS. I DO NOT USE THE WORD STEAL LIGHTLY. IF AN INDIVIDUAL WERE TO TAKE FORCIBLY FROM OUR CITIZENS THAT WHICH LTV SEEKS TO TAKE BY EXECUTIVE FIAT WE WOULD DEMAND PUNISHMENT. WE ARE OUTRAGED -- AND JUSTIFIABLY SO -- WHEN OUR ELDERLY ARE MUGGED IN THE STREETS. IF WE DISCOVERED AN ORGANIZED CONSPIRACY TO ROB TENS OF THOUSANDS OF OUR SENIOR CITIZENS OF THEIR SAVINGS IN ONE NIGHT, WOULD WE NOT RISE UP IN RIGHTEOUS INDIGNATION? WOULD NOT THE EXECUTIVE AND JUDICIAL BRANCHES OF OUR GOVERNMENT EXERCISE THEIR FULL CONSTITUTIONAL POWERS TO BRING THE PERPETRATORS TO JUSTICE? WOULD NOT THE CONGRESS CALL FOR BETTER LAWS TO PROTECT THE WELFARE OF OUR CITIZENS?

I ASK YOU, MR. CHAIRMAN, WHAT IS THE DIFFERENCE BETWEEN LTV's ACTIONS AND THAT OF SUCH A CONSPIRARCY? THIS CORPORATE MUGGING MAY SEEM TIDIER AND LESS VIOLENT SINCE IT IS DONE WITH A PEN INSTEAD OF A KNIFE, BUT THE ULTIMATE EFFECT IS THE SAME -- THAT WHICH RIGHTFULLY BELONGS TO THE VICTIM IS STOLEN FROM HIM.

THE BI-PARTISAN BILL THAT SENATOR METZENBAUM HAS INTRODUCED WILL PROVIDE IMMEDIATE RELIEF TO THOUSANDS OF CONFUSED, FRIGHTENED AND ANGRY RETIRED WORKERS. IT LIFTS THE OMINOUS CLOUDS THAT DESCENDED ON THEM WITHOUT WARNING. THE BILL DOES NOT ATTEMPT TO DEAL WITH THE UNDERLYING EQUITIES OF THE ISSUE, LEAVING THAT TASK TO THE BANKRUPTCY COURTS. IT MERELY MAINTAINS THE STATUS QUO UNTIL THE COURTS DECIDE OTHERWISE. IT IS A REASONABLE RESPONSE TO AN IRRESPONSIBLE ACT. CONGRESS SHOULD ENACT IT IMMEDIATELY.

THE UMWA INTENDS TO REPRESENT THE INTERESTS OF ITS MEMBERS IN THE COURTS. BUT IF THE LTV CORPORATION IS ULTIMATELY ALLOWED BY THE COURTS TO ROB ITS RETIRED WORKERS, WE WILL HAVE EXPOSED A FATAL AND DANGEROUS FLAW IN THE LAWS OF OUR NATION. OTHERS WHOSE PREDATORY INSTINCTS OUTWEIGH THEIR HONOR WOULD CONSPIRE TO PURSUE A SIMILAR COURSE. FUNDAMENTAL AND SWEEPING REFORM WOULD BE NECESSARY, LEST WE SHAKE OUR ECONOMIC AND POLITICAL SYSTEMS TO THEIR VERY FOUNDATIONS.

IT IS OUR FERVENT HOPE THAT THE INSTITUTIONS OF OUR GOVERNMENT WILL RECOGNIZE AND PROTECT THE RIGHTS AND INTERESTS OF THE NATION'S WORKERS.

THANK YOU.

Senator METZENBAUM. Thank you very much.

Mr. Trumka, how many mineworkers does the union represent at LTV's facilities?

Mr. TRUMKA. Roughly, 3,000, sir.

Senator METZENBAUM. How many retirees do you say are in that union?

Mr. TRUMKA. Roughly 1,500.

Senator METZENBAUM. Where are LTV's mining operations?

Mr. TRUMKA. The mining operations are in four States, Pennsylvania, West Virginia, Kentucky, and Virginia.

Senator METZENBAUM. Are health and life insurance benefits covered in your collective bargaining agreements with LTV?

Mr. TRUMKA. Yes, sir. They are in our most current agreement and have been included for nearly 40 years now. They are in every contract that we have ever negotiated with Jones & Laughlin, LTV, Republic Steel, and all of its predecessors.

Senator METZENBAUM. Has the company been in touch with your union in negotiating any changes in benefits since they have filed for bankruptcy?

Mr. TRUMKA. They have not, sir.

Senator METZENBAUM. I have no further questions. I don't know whether any members of the congressional panel do.

Senator SPECTER. I do, very briefly, Senator Metzenbaum.

Mr. Trumka, at the outset I want to congratulate you on a very, very forceful statement which really lays it right on the line.

When you talk about the risk that the corporate world undertakes and you talk about guarantees which go to the workers for health and benefits protection, that's precisely the point. And those are exactly the priorities that we are concerned about in the Congress.

We faced this issue in 1984 when the Supreme Court handed down a decision in the case called *Bildisco* and we legislated that you cannot, by going into chapter 11 bankruptcy proceedings, which enable you to continue your business, eliminate your responsibilities under existing contracts, collective bargaining agreements or health and benefit and pension effects. And I believe that where you have called for punishment, that it is a request that ought to be heeded by the lawyers for LTV.

And you talk about their legion of attorneys. You are a pretty good lawyer yourself, Mr. Trumka. You just made a very powerful statement. I know you are a member of the Pennsylvania bar. And there are some lawyers on this panel, Senator Metzenbaum and myself included, and we are not going to let them get away with it.

The matter is as current as this morning's Times, which I quoted about the termination causing unsettling effects and psychology trauma. And I would hope that the LTV lawyers would take heed from what Senator Metzenbaum was saying and would observe these proceedings and change their ruling on this two-page form letter. I would hope that they would do it.

This is a hearing which is going to attract a lot of attention and it will come to the direct attention of the LTV lawyers. And they are on notice that they are dealing with 78,500 people who may have a powerful class action suit for psychological trauma and unsettling effects just as you have articulated.

So I would hope that your message and our message would be heard by those in authority to correct this situation.

Senator METZENBAUM. Thank you, Senator Specter.

Mr. Trumka, your statement was very powerful and you provide very effective leadership for your union and we are grateful to you for being here with us today. This is not the first occasion in which you and I have worked together and we will continue to work together. I think somehow, some way, we will solve this problem. And we are going to do it for the help of the steelworkers and mineworkers and many others that are concerned as well.

Thank you very much.

Mr. TRUMKA. Senator, on behalf of the steelworkers and the mineworkers and the auto workers that are involved, their families their relatives and their communities, we genuinely thank you for your leadership on this issue. Senator Heinz and all the Congress people present for their—I'm sorry, Senator Specter.

Senator SPECTER. We will take it for Senator Heinz as well.

Senator METZENBAUM. The Chair would like to announce that there have been many people who indicated they wished to be heard this morning. We will accept the statements from any who wish to be heard, but there are limitations on our time. The Senate is in session today, the House is in session. There are planes that have to be caught to get back to Washington.

So I want anybody who isn't able to be heard, to recognize that it is not because we are indifferent to their concerns but rather by reason of the limitation of time.

Having said that, we would want written statements, of course, from such persons. I would like to ask the Members of the Congress, who were kind enough to permit president Williams and president Trumka to be heard first, if they would be good enough if they have opening statements, I would just ask them to recognize the limitations of time and not take more than 2 to 3 minutes.

The dean and the Chair of the Ohio delegation in Congress, Congressman Louis Stokes.

OPENING STATEMENT OF HON. LOUIS STOKES, A U.S. REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. STOKES. Thank you very much, Senator Metzenbaum.

Let me, at the outset, express our appreciation to both you, Mr. Chairman, and to Senator Specter, our appreciation for your actually convening the hearing here of the Senate Judiciary Committee in our city. This is an extraordinary move. It is one that you are to be commended for and I'm sure my colleagues join with me in expressing our appeciation to you for this action that you have taken.

I also realize we are seated this morning in a hall in Mary Rose Oakar's congressional district, as is LTV Steel Corp. itself actually located in her congressional district.

Mr. Chairman, the impact the bankruptcy filing of LTV will have on the Cleveland area is extraordinary and it is imperative that we work together toward lessening the devastating impact of LTV's actions on our community.

LTV's actions will affect 78,500 retirees and their families, including 30,000 in the Cleveland area alone. The Pension Benefit

Guaranty Corporation which was established in 1974 by title IV of ARISA, is designed to protect the retirement income of participants and beneficiaries covered by private sector defined benefit pension plans.

It is my understanding that the Pension Benefit Guaranty Corporation will be able to step in and assume the pension obligations of LTV, if LTV terminates its pension plans as expected.

However, the Pension Benefit Guaranty Corporation only guarantees the continued payment of basic benefits. These basic benefits are defined as monthly benefits that are subject to earnings upon retirement. Included in this definition of pension benefits beginning at normal retirement age are certain early retirement and disability benefits and benefits for survivors of deceased plan participants.

Health and life insurance benefits are not included in this definition, thereby leaving retirees without any protection. It is this matter that has brought all of us here today.

Either later today or first thing tomorrow morning, I will be introducing the same legislation in the House as that introduced by Senator Metzenbaum on the Senate side. That legislation will carry the names of each of our colleagues here this morning who represent the northeastern area of Ohio.

In conclusion, Mr. Chairman, let me just say this. Our Nation's retirees labored during their working years so that we as a Nation might be introduced to a higher plane of life. Their work has not gone unnoticed. Every day we witness a new advancement created by their past work and contribution to technology. We should not now turn our backs on retirees and those who are now left to fend for themselves. They have given LTV some of the best years of their lives. It is because of their tireless work that LTV today is our Nation's second largest domestic steel manufacturer.

I look forward to working with my colleagues in the Congress and with you in the Senate in order to try and alleviate this devastating situation and bringing real relief to these people who so richly deserve to have relief brought to them under these circumstances.

Senator METZENBAUM. Thank you, Congressman Stokes.

I know of no more able person or better respected person in the entire Congress to pick up the ball in the House and run with it than Lou Stokes. And I can't say how pleased I am to hear that he will be introducing the bill on behalf of himself and the congressional delegation from this area. That's a meaningful step forward. And I can tell you that that's going to mean much to us.

Congresswoman Mary Rose Oakar who represents this district but who also is a leading spokesperson for senior citizens throughout the Nation, not alone in our community.

OPENING STATEMENT OF HON. MARY ROSE OAKAR, A U.S. REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Ms. OAKAR. Thank you very much, Senator. I want to personally thank you on behalf of my constituents and, indeed, all the people who are disengaged from their benefits, for calling it in this dis-

trict, a stone's throw away from the steel industry, as Congressman Stokes has noted.

And I want to welcome Senator Specter. My mother was born in Pennsylvania and came here from Connellsville in the Uniontown area when she was a young girl, so we have a lot of relatives who are likely affected by this terrible dilemma.

I think we will be judged morally and historically as a country on how we treat our own people and certainly that is ever so true with respect to older Americans. And I note that while we are meeting in my district—and I think, Senator Specter, you made note of this, but I want to just show you how many people this affects. This is a national issue. There are retirees from Oklahoma, Indiana, Mississippi, Michigan, Texas, Pennsylvania, Minnesota, Virginia, West Virginia, Illinois, California, New York, and the State of Washington, just to mention a few areas where LTV networks that are going to be affected by this abuse of what I consider a fording of the law, as you mentioned Senator.

Senator, I want to say that I am proud to cosponsor your bill and I look forward to seeing that passed under the leadership on the House side by my colleague and the dean of our delegation, Louis Stokes.

I do think that there are some things though that we should make very, very clear. No. 1, we want LTV to remain open. We want them to remain open but we don't want them to remain open on the backs of older Americans who made their company what it is today.

I think in the long term there are some other things that we have to consider. No. 1 is we have got to pass the omnibus trade bill that passed overwhelmingly on the House side. I know you two gentlemen are active cosponsors. But the President of the United States has said he is going to veto a bill that gives him the authority to act when other countries unfavorably dump in our country. Now that, to me, is reprehensible. We haven't heard a ripple of concern on the part of the President of the United States in this issue. And I think that is just totally reprehensible.

The second thing is, I think that we are now looking at a tax bill in the Senate and the House. And Senator Glenn, who could not be here who has been a very, very active person on this issue, along with yourself, Senator Metzenbaum, has done something that I thought was the right thing to do in the Senate bill that we did not have in the House bill. And I think that this approach could compliment what you are trying to do in getting them to adhere to the law.

What he has done is provide, through an amendment that he introduced that passed, as I understand it, to provide for reinvestment of the investment tax credit for modernization of these various facilities.

Now, in Cleveland, and I am sure this isn't true in other areas, our facilities are modern. They did use a lot of their tax credits for modernization.

So what I am going to try to introduce, through an amendment, and hopefully get as a complimentary approach to what you are doing, Senator and Congressman Stokes and my colleagues, I'm going to introduce a bill and talk to the chairman of the Ways and

Means Committee that would say instead of allowing these investment tax credits to be used—and there will be substantial amounts of money returned to these different corporations, in particular, LTV Steel—let that money be used for a pool of money that would cover these benefits.

There is the money that they need to pay for your benefits. And this, I think, will give them an opportunity not to distort and divest from their responsibilities.

So I will be trying to introduce that bill when we get back tomorrow. And hopefully, because in the House side we have 51 congressional districts directly impacted by this activity, we will get a lot of cosponsors.

But Senator, you have provided the leadership. You have always been a champion of the working people of this country and I'm proud of you and proud that you represent all of us and together we are going to change this dilemma around. And we don't want to see any bloodshed. I notice there is a sign up there that "We want to be treated fairly." And "We don't want violence." That's why we are going to take some action, we really will.

Senator METZENBAUM. Congressman Dennis Eckart. We are happy to hear from you.

OPENING STATEMENT OF HON. DENNIS ECKART, A U.S. REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. ECKART. Thank you, Senator.

In this bankruptcy filing, LTV claimed that one of the reasons its excessive costs beyond its ability to remain in a positive cash flow basis, was to be blamed on the cost of the retirees. It's a lot like blaming Willard, the weatherman, for the drought in the southern part of the United States.

Clearly, the cost of the retirees programs, from whom the company has profited so well over the past several years, has not anything to do with the inability of this corporation to function today.

I serve on the Education and Labor Committee which has jurisdiction over the pension programs, and the creation of ERISA.

I look forward to listening to our next witness because I join with my colleagues in concluding that LTV's determination, that what they did is legal, is interesting, ingenious, and wrong. It's patently illegal and it's personally indecent.

What LTV has done, very simply, is to abdicate its responsibility, which even others of its colleagues in the steel industry have not chosen to do, and that is to disinvest their retirees from that which they have earned from a lifetime of work.

It seems we have become too much of a throwaway society. We abuse our workers in the factory, we abuse them on the job. In some instances, we induce them to retire early. And then we refuse them in their time of need. None of that is consistent with good public policy.

Two instances come to mind that I think the Congress must devote its attention to. One hundred and sixty years ago this country was held hostage by the Barbary pirates. At that time President Monroe said that he would spend millions for defense but not 1 cent for tribute.

I note that just a few days ago LTV appealed to the court, and in a most convoluted and difficult to understand decision, to grant it the right to pay its bills to its defense contractors but not a cent for his retirees, health care coverage. Once again, millions for defense but not a penny for retirees. I find that to be an unconscionable decision.

And second, as Mary Rose pointed out, under a provision of the Senate tax reform legislation, the LTV Corp. will be eligible to receive over $100 million in refunds from the U.S. Treasury to buy back its unused investment tax credits. Investment tax credits that were to be used to keep its industry's position alive and vibrant in the world today.

I fail to understand how we can send your tax dollars back to a company that is picking your pocket not to pay that which they already contracted to give to you and call it tax reform.

I will object to that provision strenuously and join my colleague from Cleveland, Ms. Oakar, in asserting that any of the tax windfall that a steel company, such as LTV, might accrue under the tax reform bill, first go to those who helped make those companies profitable to begin with, and that's the workers, who made the difference in the last 60 years.

Senator METZENBAUM. I might say for the information of those in the audience that, following protocol, I am introducing our Congresspersons on the basis of their seniority in Congress. Congressman Feighan.

OPENING STATEMENT OF HON. EDWARD FEIGHAN, A U.S. REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. FEIGHAN. Thank you very much, Senator.

I think that we all in this room today would agree today that the decision by LTV Steel to stop their health and their life insurance benefits to their retirees will unquestionably rank as one of the most indefensible and unconscionable acts of any American corporation in this century.

And I think that Senator Metzenbaum, you, and Senator Specter, are to be commended very genuinely for acting as quickly as you have in convening this meeting today to give us an opportunity to hear the testimony of Lynn Williams, and the president of the United Mineworkers, Richard Trumka. I think that we have an incredible obligation on us as we listen to testimony of the retirees today.

We have heard a wide range of descriptions of this action undertaken by LTV as indefensible, as unconscionable, as reprehensible, as insensitive. But remember, ladies and gentlemen, that it is most of all illegal.

And I am hopeful that the testimony that we will hear today from Professor Countryman will give us a legal foundation to understand the alternatives that we have before us in fighting this action. We don't have to look very far to realize just how unnecessary this decision was. What is most galling to all of us is that LTV has said that they are required under American bankruptcy law to take this action. That's simply not the case.

Consider the painful reorganization that the retirees from White Motor Corp. went through. They didn't have their health and life insurance benefits suspended. As a matter of fact, they had a trust fund created, a $30 million dollar trust fund that will insure a lifetime continuation of those benefits. And they went through a chapter 11 bankruptcy filing as well.

Conider, also, the recent filing of the Wheeling-Pittsburgh Steel Co. They didn't have their health and life insurance benefits suspended, but somehow LTV Steel is finding it an obligation under the Bankruptcy Code. It simply is not the case.

Senator Specter has spoken earlier on the decision of the Supreme Court of 2½ years ago called the *Bildisco* decision. Congress acted quickly after that and passed legislation that both Senator Specter and Senator Metzenbaum fought hard for in the Senate. That legislation insures that a company like LTV in a bankruptcy proceeding is prohibited from canceling those rights of workers and retirees under collective bargaining agreements. We have an obligation to all of those people, as well as to the salaried employees, because it is just as wrong for them as it is for the union retirees.

I will be leaving for New York later this afternoon, Mr. Chairman, and filing with the Bankruptcy Court an amicus brief in support of the United States Steelworkers in their efforts to get an injunction to stop immediately the suspension of these health and life insurance benefits, with the help of our colleagues throughout the country.

But most importantly, with the help of the hundreds of people who are in this room today and the thousands of people who they represent across Northeastern Ohio and across this country, I am confident that we can prevail. Thank you.

Senator METZENBAUM. Congressman Traficant.

OPENING STATEMENT OF HON. JAMES TRAFICANT, A U.S. REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. TRAFICANT. Thank you, Senator.

I commend you for having such an expeditious hearing and moving toward the areas of great concern that we all share. However, I am very disappointed that no one is here from LTV. And second of all, no one is here from the Justice Department, which I would have liked to have had an opportunity to interact with them.

I will not speak specifically on the areas already touched except to say that I am of the opinion that the Justice Department of this country has turned back the clock. They know this is an illegal move and they should be taking, on behalf of the American people, the job that they are to carry out, the necessary actions to stop this illegal behavior of LTV. They failed to do so and they are left free to continue to operate as they have. And I think that is a serious matter that should be of concern in this LTV process, more so, perhaps, and more damaging to the American people than the incident that is now at hand.

My only comments are made that LTV did not make this decision on some fishing trip. This has been a cold, calculated decision over many months and that decision is plain and to the point, it injures Americans in direct violation of existing statutes.

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I will support any legislative initiative that is brought forward in either House to directly affect some relief in this area. However, our continuing to look for other ways to "skin the cat" sometimes is not the fight. The fight should now be directed to the existing law which is appropriate and the Justice Department should not let them violate our laws in this country. And that should be the position of Congress.

Finally, I think the veiled threats that these corporations have when they make these decisions, is if they get too much counteraction from the Congress that they may close existing plants.

To the people here today, no district in America has been hit harder than mine with the loss of 55,000 steel jobs. I don't know how you feel, but I think it's time we draw the battle lines. And that veiled threat of closing existing plants in my district is not going to stop me from trying to get the Justice Department to carry out their sworn duties in this country. And I would expect that LTV should live up to the contractual obligations they have pursuant to the laws of this country.

Finally, I agree with Mary Rose Oakar 100 percent. I had an amendment relative to the investment tax credit that they be made available only for those items and those goods and that equipment purchased, made by Americans. And I think it should not only be addressed again but the further scenario that she has offered to make it available for these retirees so injured and for the funds to handle those problems, is an excellent idea and I would support it 100 percent.

So I compliment the Senators here. I am glad to see Senator Specter here from Pennsylvania; I know the problems they have had. I am very glad to support the issue brought forward by Mr. Stokes from Cleveland. Thank you.

Senator METZENBAUM. Mr. Trumka is going to have to leave us. Thank you very much for being with us.

The bankruptcy law has a specific provision in it which prohibits a trustee or a debtor in possession, such as LTV is, to unilaterally, that is, on one side, terminate or alter any provisions of a collective-bargaining agreement. It requires the company to bargain or to go into court to get an order before terminating any benefit. But the company did unilaterally terminate. And therefore, in my opinion, that activity wasn't in accordance with the bankruptcy law.

When it came time then to have somebody speak on the question of what the bankruptcy laws provide; I did not feel that we just wanted to find some lawyer who might be an advocate on one side to the other. And I knew there was one man who would be unquestionably recognized as the outstanding authority on bankruptcy law in the country. I wasn't certain that we could prevail upon him to join us here this morning.

He is the Royall Professor—and Royall is not in the royal such as king or something, it is R-o-y-a-l-l, Royall Professor of Law at Harvard Law School.

And he has written many texts on bankruptcy law. He does us a great favor in coming out from Cambridge, MA, to join us this morning. I am very happy to welcome Vern Countryman. And I want to ask him just a few questions about his background and then ask him some specifics with respect to the law.

Senator SPECTER. Senator Metzenbaum, if I might just have a word. I'd just like to mention that in bringing Professor Countryman here, I do think the record ought to show that his association is not entirely with Harvard. He taught me at Yale many years ago.

Senator METZENBAUM. I could be facetious and make a remark about that, but I'm not going to say a word.

Mr. Countryman, tell us a little bit about yourself. What did you do after you came out of law school and thereafter?

STATEMENT OF VERN COUNTRYMAN, ROYALL PROFESSOR OF LAW AT HARVARD LAW SCHOOL

Mr. COUNTRYMAN. Immediately after graduating from law school I went to work as an assistant regional attorney for the National Labor Relations Board. But I only held that job for a few months when I had a chance to go clerk for Justice William O. Douglas on the Supreme Court, which I did in the 1942–43 term.

Then after that there were 4 years in the Army and then I began to teach law, first at the University of Washington for 1 year, then as Senator Specter has indicated, at the Yale Law School for 7 years.

Then I took a demotion and became a dean at the University of New Mexico Law School where I was until 1963 when I moved to Harvard Law School and have been since.

In all of my teaching over all these years, I have always taught the subject of bankruptcy. And if I have any additional expertise, I think it has come from living on the verge of it all my life.

Senator METZENBAUM. Have you published any law books in your own name?

Mr. COUNTRYMAN. Oh, yes. I have published case books on bankruptcy law and corporate recrganization law and commercial law, which are widely used in law schools in this country today.

Senator METZENBAUM. And you have published any number of articles?

Mr. COUNTRYMAN. Yes. I don't have a count on that but it is quite a number, sir.

Senator METZENBAUM. I don't want you to be too modest, but let me ask you a question. Do you consider yourself to be the Nation's leading bankruptcy expert?

Mr. COUNTRYMAN. Well, there are a couple of people who might debate that point, but in my judgment they are wrong.

Senator METZENBAUM. Well, we are very happy to welcome you here.

Mr. Countryman, LTV has claimed it has to terminate its health and life insurance benefits as part of its bankruptcy petition. What is your opinion on that subject?

Mr. COUNTRYMAN. I have the opinion that they are flatly wrong. They say they are required by the Bankruptcy Act to terminate these health and insurance benefits of retirees.

Those benefits are provided for in collective-bargaining contracts and the section you read says no provision of this title and "this title" means no provision of the Bankruptcy Code shall be construed to permit a debtor in possession unilaterally to terminate

any provision of the collective-bargaining contract without first complying with section 1113, which requires prior negotiation and then a ruling by the court as to whether the elimination or modification of any provision of a collective-bargaining contract is necessary for a reorganization. As two courts of appeals have recently held, that is the requirement of the new law.

And only if they go through negotiation and, failing that, get a ruling from the court that the change is necessary to a reorganization, are they allowed to make the change. So what they have done is in flat violation of the 1984 law.

Senator METZENBAUM. You think the lawyers who advised them apparently—although I gather that's their position—that the lawyers who advised them to terminate the health and life insurance benefits for the retirees, advised them incorrectly?

Mr. COUNTRYMAN. Yes, I do. I suspect they also advised them before the second circuit decided a case very recently where it held that retirement benefits were a proper subject for bargaining under section 1113 of the Bankruptcy Code.

Senator SPECTER. How recently was that decision?

Mr. COUNTRYMAN. That decision, I believe, was May 26.

Senator SPECTER. But still that decision preceded——

Mr. COUNTRYMAN. Preceded their actual termination but I think they had gotten advice from their lawyers about what they could do.

Senator SPECTER. Well, their lawyers are under obligation to read the advances to find out what's happening.

Mr. COUNTRYMAN. I'm not defending their lawyers. I think the advice they gave them was wrong, dead wrong. They advised them to violate the law.

Senator SPECTER. Sir, I just want to ask you one question because I'm going to have to leave at 10:30, which it almost is now.

Professor Countryman, is there any rational basis or clause with a legal theory for the position taken by LTV in canceling these health and insurance benefits?

Mr. COUNTRYMAN. In my judgment there is not, since the 1984 amendment to the Bankruptcy Code, which is applicable in this case.

Senator METZENBAUM. LTV has said that the retirees will have a claim against the company for lost health and life insurance benefits.

I might say that a man came up to me before this meeting started to show me a check that he had received, about two hundred and some-odd dollars. He tried to cash the check. He cashed the check and it was returned because the company had closed out their bank account or at least put a clamp on it.

Now, that means that retirees would stand in line behind the banks, if the banks are secured creditors, and most of them would be, isn't that the fact, banks would normally be secured creditors?

Mr. COUNTRYMAN. Yes.

Senator METZENBAUM. They would stand in line behind any other secured creditor. A secured creditor being one to whom a connection with which there has been some mortgage obligation or assignment of assets, is that right?

Mr. COUNTRYMAN. Right.

Senator METZENBAUM. Now, therefore, there are 20,000 other creditors who will be attempting to collect that which is owed to them. Some of them will have large bills, some small.

In practical terms, what will that mean for the average LTV retiree if that retiree is just thrown in with the general unsecured creditors?

Mr. COUNTRYMAN. Well, he may get nothing at all if all he has is a general unsecured claim. Now, I believe an argument can be made that not only can the company not terminate these benefits without going through the procedure set out in the Bankruptcy Code, but that they have to keep up the payments required by the contract unless and until the court approves or rejects it. And that those payments are first priority administrative expenses, which in a bankruptcy case come even ahead of the secured claims.

I would make that argument on their behalf if I were representing them.

Senator METZENBAUM. Bankruptcy lawyers will be paid prior to the retirees, won't they?

Mr. COUNTRYMAN. They have a special provision in the Bankruptcy Code where they can get paid in advance, yes, Senator.

Senator METZENBAUM. Knowing full well that you are not in a position to state what those fees will be, but also knowing of your unlimited experience in this field, would you care to give me an estimate as to what you think the bankruptcy lawyers fees—that is, those who represent LTV in this proceeding—might very well be, an approximation?

Mr. COUNTRYMAN. I wouldn't be surprised if they amounted to as much as $18 million.

Senator METZENBAUM. $18 million which would be paid in advance of any payments to the retirees.

I want to thank Senator Specter for coming here this morning.

Now, that's approximately $18 million. I think their representative is a man by the name of Michael Crames. Is he a well-known lawyer in bankruptcy matters?

Mr. COUNTRYMAN. Yes, he is.

Senator METZENBAUM. Do you have any idea as to the approximate fee per hour that Mr. Michael Crames might receive for his services in representing LTV? And apparently, in this case, either he or someone else inappropriately advised them as to their rights under the law.

Mr. COUNTRYMAN. Well, I remember less than 2 years ago, the Bankruptcy Court allowed lawyers fees in the W.T. Grant bankruptcy which, compared to LTV looks very small, and he allowed fees in excess of $400 per hour. I don't know what Mr. Crames gets but I imagine he gets right in the ballpark with the rest.

Senator METZENBAUM. I thought the retirees who weren't getting their health and benefits paid would be interested in the $18 million approximate figure, give or take a little bit one way or the other, and the $400 an hour for the corporation's lawyers.

One last question I have and then I will ask my colleagues if they have any questions. Would you give us your views on the bill that I introduced last Friday and I have submitted to you for your perusal.

Mr. COUNTRYMAN. Well, I think it's a splendid bill and I would certainly support it, Senator, because like it says, you have violated this provision you read earlier and stop doing it right now. And that might spur up the Justice Department to even take a look.

Senator METZENBAUM. I thank you, Mr. Countryman. Now, some of my colleagues may have a few questions.

Ms. OAKAR. I have one question. Professor, you mentioned that the law indicates that those retirees who are covered by collective bargaining were protected under the law. What about those retirees who didn't have the wisdom—or were in management positions, are they protected under the law as well?

Mr. COUNTRYMAN. They don't get the same sort of treatment. The new provisions Senator Metzenbaum and I were talking about, enacted in 1984, is confined in its application to collective-bargaining agreements.

Now, people who have other retirement benefits, if they are funded, they would be protected. If they are not funded, all they have is a claim against the company which would be where the collective-bargaining people were if they did not have the collective-bargaining contract.

Ms. OAKAR. So in other words, the people who were part of a formal union situation, who did collectively bargain, are really better off?

Mr. COUNTRYMAN. Yes, they are.

Ms. OAKAR. So in other words, what we have to do in fairness to everybody is try to provide for all the retirees, not only those who had enough good sense to be part of a union situation but all of the retirees, including the management people who may have not involved?

Mr. COUNTRYMAN. That might be, Congresswoman, where your bill would be very helpful for people like that who don't have the protection of a collective-bargaining contract.

Ms. OAKAR. So you take that $114 million that they would get from an investment tax credit and use that for those who were not covered by the law?

Mr. COUNTRYMAN. Yes.

Senator METZENBAUM. Congressman Eckart, I think you indicated you had a question.

Mr. ECKART. Professor, just very quickly. Having been forced to endure the text in law school a couple of years ago that you wrote and which I suffered so greatly, let me take this opportunity to get even.

Seriously, can you advise me under what cover of law is LTV presumed to be proceeding?

Mr. COUNTRYMAN. I don't believe they have a cover of law for what they are doing. I believe they are in flat violation of the law in what they have already done in just notifying these retirees that these benefits have been terminated,

Mr. ECKART. You can find no interpretation of any lower courts or appellate court decision?

Mr. COUNTRYMAN. No. Now, the only court decision that comes very close is that decision of the second circuit, *Century Brass Products* case, which held that retirement benefits were a proper subject for bargaining under section 1113.

They went on to say in this case the UAW should not represent both working employees and the retirees. But it was a conflict of interest between them and the union took the position in that case that it should not represent the retirees in the second circuit. But they have represented these retirees so that they can bargain about their benefits.

Mr. ECKART. Thank you.

Senator METZENBAUM. Congressman Traficant.

Mr. TRAFICANT. Yes, I have a couple of brief questions.

Professor, No. 1, I think the record is clear on *Bildisco, Century Brass*. I want to know, if they spent in the neighborhood of $15 to $20 million totally, they wouldn't have left them out there hanging.

There are those of us of the opinion that LTV's actions were calculated because they believe they have time. And the high courts of the country and the Justice Department with them should be vigorously opposed to their precedent-setting move which is changing the tenor and facts of the law by the decision rendered in the courts, where they had many people that they knew. They have friends.

My particular question to you: From your experience in the field of bankruptcy actions and your broad-based reviewing of this under different administrations, what is your opinion of the U.S. Justice Department under Ronald Reagan and its dealings with the matters concerning corporations and actions taken, similar to LTV?

Senator METZENBAUM. I'm not going to permit you to answer that question. I gave assurance to the chairman of the Judiciary Committee, Strom Thurmond, that I would try to keep this hearing, nonpolitical. And I'm going to ask you not to ask that, Congressman Traficant.

I don't mean to be rude, you didn't know that assurance. But I made a very strong commitment to Strom Thurmond that I would not get into politics and the administration. So I hope you would understand.

Mr. TRAFICANT. All right. I did not know. I'm not questioning the politics of the matter, I'm questioning the injury to those retirees. I think that's what the crux of the issue is right now.

So I will pull my question.

Mr. STOKES. I just have one question, Professor Countryman.

The case you referred to, the *Century Brass* case, is that a U.S. Supreme Court decision?

Mr. COUNTRYMAN. No, it is a decision of the Second Circuit Court of Appeals in New York.

Mr. STOKES. Second Circuit?

Mr. COUNTRYMAN. Yes.

Mr. STOKES. And I believe you said it was decided May 26?

Mr. COUNTRYMAN. I believe that's correct. I had it right here.

Mr. STOKES. Well, for citing I would prefer——

Mr. COUNTRYMAN. It's not reported, that's my problem, but decided. No, it's June 30, 1986.

Mr. STOKES. June 30. Thank you.

Senator METZENBAUM. Let me say to the audience that Professor Countryman is here on a pro bono basis, without fee. Expenses are

being paid but that is all. I think we all owe him a great deal of gratitude for joining us today and I appreciate it.

Our next panel will consist of the retirees and Frank Valenta. But before that we will take a short 5-minute recess.

[Short recess taken.]

Senator METZENBAUM. This meeting will come to order, please. Let's keep it moving.

We are very happy to welcome Frank Valenta, president of the United Steelworkers, district 28, and LTV retirees. I'm sure we could have had 140 witnesses but we are limited on time.

Congressman Stokes had to leave, Senator Specter had to leave, and Congressman Feighan had to leave. We are happy Congresswoman Oakar is still here with us.

And I did want to mention the fact that we are in the district of councilman—Councilman, what is your name?

Councilman RYBKA. Councilman Rybka.

Senator METZENBAUM. Do you have a statement or comment, Mr. Valenta?

STATEMENT OF FRANK VALENTA, PRESIDENT OF THE UNITED STEELWORKERS, DISTRICT 28, AND LTV RETIREES

Mr. VALENTA. Of course, I do want to recognize in this hall here this afternoon, the retirees and senior citizens, the people that really made our Nation as great as it is and certainly made LTV Steel what it is. I think they really deserve tremendous applause for being here today. They did a whale of a job. We had a rally down here last week where 600 showed up. We are today restricted by the size of the hall because we didn't want to overcapacitate.

But there is a lot of concerned people out there over and above those who are in attendance. In fact, I tried to hold the attendance down for today.

Well, these retirees certainly had a bomb dropped on them on July 17 when, in fact, LTV made an announcement of bankruptcy. I personally called one of the higher-ups of LTV Steel on the morning of July 17 because there were meetings taking place down in the plant, right here in the valley. LTV Steel meetings were being conducted by the superintendents of various departments and industrial relations, and the local was involved in representing the workers.

It was pointed out at that early morning meeting that the retirees were going to have their insurance premiums stopped and their benefits cut. Now, when I was informed of this, I in turn called one of the higher-ups of LTV Steel, pointing out to him that I thought it was a real dastardly thing to do. He indicated to me, "Frank, you know there are opinions that are going on out there, there are rumors," and he told me, "The only thing that we want, logically today, are facts."

I said, "Why did your superintendents in the plant inform our local union representatives the benefits were going to be cut?"

And he said, "Well, if they informed them of that, they made a grave error."

After talking to him in the morning, I held a news conference that afternoon and then talked to the media, giving them the infor-

mation, saying this higher-up from LTV gave me this, only to find out that the individual that talked to me had a letter in the mail to all retirees of LTV Steel that very same day.

And this is the bomb that I say was dropped on the retirees when they opened up their mailbox and read this, probably not on the 17th but on the 18th and 19th. I think it bears putting in the record just what was in the—quoting briefly—in this particular message to the people that really made that company over the years.

After perhaps highlighting the bankruptcy and the reasons for it, it goes on to say here "It is our expectation that as retirees, you will at this time continue to receive your pension from funds already deposited for your pension plan." Now, the rest of this paragraph is all underlined. "You should, however, be aware that effective immediately the life insurance coverage and medical insurance coverage that has in the past been paid by LTV, can no longer be provided because of the restraints imposed by chapter 11."

Now, nothing could be further from the truth, especially after hearing Professor Countryman. This means those expenses to be reimbursed, which I have incurred today, cannot be paid for by the company. "Please examine your present insurance coverage and, if appropriate, take immediate action to obtain alternative coverage."

And this is the last sentence. "I appreciate that the company's current circumstances will present considerable difficulties for you and I do wish that it had not been necessary."

"Considerable difficulties," he said. He should have said tremendous difficulties. And this was a two-page letter. He could have done it in one sentence. He could have said in one sentence to the retirees, "You have given us your best but now we are going to take the rest."

Well, I want to inform you that the community is totally behind these good people. My telephone has been ringing off the hook in the district office since this announcement was made. We have a lot of business and industry and a lot of professional people that are behind us in our endeavors to straighten out this mess because it certainly is a mess.

The day after this communication, I spoke downtown at the Rotary. After speaking, quite a few of the business and industry representatives, who belong to the Rotary Club, came up to me to indicate that they thoroughly and totally sympathized with us. We have been receiving calls from clergy, we have been receiving calls from all kinds of community organizations.

We received many, many calls also, from our elected representatives here in Cleveland City Council, in States politics, local politics and of course, you good people in Federal politics. There is sentiment out there for these people and a sentiment that has to be recognized. This has to be corrected.

And the one point that was made here was the word "precedent." My God, we can't let this be precedent-setting because this will just be the tip of the iceberg. And we have been pointing out right along, there is going to be a ripple effect, but it won't be just at LTV. Vendors, suppliers to LTV Steel will be going under as well. There are other major steel companies that are on the brink of it.

And so I beseech you, I implore you, I know that you have got a tremendous interest. I say it has to be much more, because it will be this interest and this interest alone that will enable the workers of this Nation now and in the future to rely on to some degree a feeling, of prosperity and security.

Now, I also talked to the retiree gentleman that you talked to before this meeting, Senator. He gave me a copy of his notice and his check cancellation. It states on here very clearly, "refer to maker." This particular check was sent back and it was actually canceled out by Metropolitan Life Insurance Co. Blue Cross/Blue Shield is doing the same thing.

We have been saying "Where is the heart in LTV Steel?" Where is the heart of those insurance carriers, Metropolitan and Blue Cross/Blue Shield, Aetna, and all the rest of them that kind of jumped on the LTV bandwagon to make immediate cancellation?

Well, I will tell you, it's bad news. I think they should be talked to as well. There are provisions where people can continue with their benefits. But this was a case where this gentleman, this retiree, has a wife with a tremendous arthritic condition so bad that she can't raise her arms. Here is the check. There is an allowance for cashing and it says on here "Not valid before July 14."

In addition to that, to rub salt in the wounds, it also points out here that there is a $3 per item charge to this. The retiree had to pay $3 for getting his check back. Now this is just thoroughly and totally ridiculous, cruel, heartless, and it has got to be stopped.

Thank God for people like you at the head table for supporting us in this activity. And I will tell you I know the feelings of the workers in the mill. They are upset over this. As a matter of fact, they are angry. You know as we are talking now, a lot of second and third generation steelworkers are working in these mills all over the country. I personally am a second generation steelworker. Of course, my dad passed away some years ago. But I can imagine how I would feel working in that mill if my dad had to be standing outside after being told that his benefits were going to be cut.

So I just hope that we take as immediate action as possible. I know you are doing your utmost. We are behind you 100 percent. And speaking for all of these senior citizens and retirees behind us, thanks, believe me, from the bottom of my heart and their hearts. They are with you 100 percent. Will you please do what you can for them?

I conclude my remarks on behalf of the delegation. If it's humanly possible, we won't let them down.

Can I just make one point relative to what was pointed out about the court decision dealing with the UAW and their right to bargain for their retirees? I want you to know, we in the steelworkers union don't share that opinion. We believe that we have a responsibility to our retirees and that that decision has been rendered some years ago. But we want you to know the steelworkers will do every conceivable thing that they can for our retirees because we consider them to still be members of our union.

Senator METZENBAUM. Concerning Blue Cross, I do want you to know that Jim Patton, vice president of Blue Cross of Northern Ohio is here with us today and will be a witness yet this morning. And we will hear from him shortly.

Instead of asking a lot of questions, I think I would like to move forward. If neither of the Congress persons have any strong feelings about questions, I would like to start hearing from the retirees.

Mr. TRAFICANT. Just one brief moment. I would recommend that the letter that was discussed by Mr. Valenta and the bank's statement and notification that he had discussed here, that they be placed in the record of this particular meeting without objection.

Senator METZENBAUM. So ordered.

[The text of the letter and bank statement and notification follow:]

LTV Steel Company

July 17, 1986

Dear Retiree or Surviving Spouse:

As you are aware, The LTV Corporation has announced that petitions have been filed for itself and all of its principal subsidiaries, including LTV Steel, LTV Aerospace and Defense and LTV Energy Products, for reorganization under Chapter 11 of the Federal Bankruptcy Code. The filing was made in the United States Bankruptcy Court for the Southern District of New York.

The reasons for the Chapter 11 filings are set forth in the Company's press release regarding the filing, a copy of which is enclosed.

I want to take this opportunity to tell you what the filings mean to you.

Chapter 11 is designed to enable the Company to continue in business under the protection of the Bankruptcy Court while it restructures its obligations to creditors and takes other actions necessary to return the Company to profitability. With this in mind, LTV Steel will continue its normal business of selling, producing and shipping quality products to our customers during the Chapter 11 reorganization period.

It is our expectation that, as retirees, you will at this time continue to receive your pension check from funds already deposited for your pension plan.

You should, however, be aware that, effective immediately, the life insurance coverage and medical insurance coverage that has in the past been paid for by LTV Steel can no longer be provided because of the restraints imposed by Chapter 11. This means that those unreimbursed medical and other expenses which you have incurred to date cannot be paid for by the Company. Please examine your present insurance coverage situation and, if appropriate, take immediate action to obtain alternate coverages. You should also examine your policies to fully understand your alternatives.

I appreciate that the Company's current circumstances will present considerable difficulties for you and I do wish that it had not been necessary.

If you have any questions we urge you to submit them in writing to us, addressed to Director - Employee Benefits, LTV Steel Company, P.O. Box 6778, Cleveland, Ohio 44101. We will provide you with a written response. We also have established an information line where you will be able to record your questions. A response will be provided to you at the earliest practical time. The number to call is (216) 622-5461.

Sincerely,

A. C. Tremain

A. C. Tremain
Vice President - Industrial Relations

LIFE Insurance Company of the PROGRAM OF INSURANCE BENEFITS

Group Insurance Policy Issued by Monumental Life Insurance Company PI60629830037

0 86 277165856 Check No. 0149269

Policy No. 42 0039620-072 Branch 0001 L LEM - S -SELF

Date JUL 14 86

Pay to the Order of

Amount Dollars Cents $*****5-50

L LEMMENS
17587 RIDGE CREEK W
STRONGSVILLE OH 44136

Program of Insurance Benefits

FIRST NATIONAL BANK OF ASHLAND
AN AFFILIATE OF
NATIONAL CITY BANK
CLEVELAND, OHIO

REFER TO MAKER

Authorized Signature

⑈0149269⑈ ⑆041203895⑆ 0083037⑈ ⑈0000004554⑈

CANCELLED JUL 23 1986

SAVINGS BANK
CLEVELAND, OHIO

JUL 23 '86

JY 86 18

TRUST COMPANY N.A. CLEVELAND, OHIO
OR ANY BANK, BANKER OR TRUST CO. P.E.O.

LTV STEEL COMPANY PROGRAM OF INS. BENEFITS LTV 001 966M

Group Insurance & Pension
Metropolitan Life Insurance Company

PI6062683528 288325457 1 86 3188880
PATIENT ACCOUNT 6/13-6/16 277183856

Not Valid Before
42 0039620-072 0001 L LEMMENS -BERNARD JUL 14 86

Pay to the Order of.

REFER TO MAKER

Amount
S***567 46

HOH INC
PO BOX 396
HINCKLEY OH 44233

Program of Insurance Benefits
Authorized Signature

FIRST NATIONAL BANK OF ASHLAND
AN AFFILIATE OF
NATIONAL CITY BANK
CLEVELAND, OHIO

⑈3188880⑈ ⑆041203895⑆ 0083037⑈ ⑈000056746⑈

42

LTV STEEL COMPANY, PROGRAM OF INS. BENEFITS

LTV Steel Company, Inc.

DV 001 966M

Group Insurance & Pensions Metropolitan Life Insurance Company	PI6062583921 PATIENT ACCOUNT 040486	288325457 0 86 405220465	Check Number 3188473
T 42	Group No 0039411-002	Branch 0006	H HAMMOND -SELF	Not Valid Before JUL 14 86

Pay to the Order of:

HOH INC
PO BOX 396
HINCKLEY OH 44233

REFER TO MAKER

Amount
Dollars Cents
$***225.79

Program of Insurance Benefits

Authorized Signature

FIRST NATIONAL BANK OF ASHLAND
AN AFFILIATE OF
NATIONAL CITY BANK
CLEVELAND, OHIO

⑈3188473⑈ ⑆041203895⑆ 00830379⑈ ⑈00000225 79⑈

LTV STEEL COMPANY, PROGRAM OF INS. BENEFITS DV 001 966M
Group Insurance & Pensions Metropolitan Life Insurance Company PI6062583921 PATIENT ACCOUNT 040486 288325457 405220465 3188473
T 42 Group No 0039411-002 Branch 0006 H HAMMOND -SELF JUL 14 86
Pay to the Order of: HOH INC PO BOX 396 HINCKLEY OH 44233 REFER TO MAKER
Amount $***225.79 Program of Insurance Benefits
Authorized Signature
FIRST NATIONAL BANK OF ASHLAND AN AFFILIATE OF NATIONAL CITY BANK CLEVELAND, OHIO
⑈3188473⑈ ⑆041203895⑆ 00830379⑈ ⑈00000225 79⑈

Mr. VALENTA. For the benefit of these retirees and other witnesses, it is true that many people who are in management or service employee jobs were not able to join the union. My concern is that because they were not part of a collective bargaining contract, and they are salaried employees, they are not really protected under the law. That is the spirit of which I am making these remarks.

Senator METZENBAUM. I want to tell everyone in this room, several people have spoken about the issue of salaried employees. We have as much concern about the salaried employees. They are working people and they work for a living just the same as the others in the company did.

And Mr. Ralph Hennie is with us at the head table and is here to speak on their behalf. But I want every salaried employee in this room to know that we in the congressional delegation are as concerned about them as we are about the employees who are members of the various unions involved.

Our first witness is Mr. and Mrs. Fredericy. I want to say to our witnesses, you probably have never before testified before a Senate committee. We want you to relax. We are still your neighbors, we are not the kind of people who come here with some different kinds of hats on. This is a neighborhood meeting, notwithstanding that it is an official Senate Judiciary hearing, so please feel free to just proceed forward.

Tell us your story, Mr. and Mrs. Fredericy. I don't know whether Mr. or Mrs. wishes to start first but whatever.

All right. Mrs. Fredericy.

STATEMENTS OF MR. AND MRS. ROGER FREDERICY, CLEVELAND, OH; MRS. EDDIE HUNT, WARRENSVILLE HEIGHTS, OH; LILLIAN LEMMENS, STRONGSVILLE, OH; AND RICHARD FISHER, BEREA, OH

Mrs. FREDERICY. First of all he was forced to retire. On his first check that he got, which was supposed to tide us over until the month of September, the gross amount was $4,351.95 which they deducted $161.34 for Blue Cross hospitalization.

I was recently hospitalized on July 2 with two heart attacks. And I have incurable Crohn's disease which requires hospitalization frequently. And when I called Blue Cross and asked them about our coverage, they told me I have no coverage, as of July 17. But they have already deducted out of his pay for up to the month of September. But yet they say I have no coverage. And up to this point, as of January of 1986, we have accumulated $1,109.79 in prescription drugs for me alone.

Senator METZENBAUM. $1,109?

Mrs. FREDERICY. And 79 cents. I have a computer printout from St. Alexis Medical Arts Pharmacy.

Senator METZENBAUM. Just drugs?

Mrs. FREDERICY. Just my medication for Crohn's disease.

Senator METZENBAUM. Can you tell us, what is Crohn's disease, Mrs. Fredericy?

Mrs. FREDERICY. Yes. It's a disease in the colon. I had surgery last year on May 29. I was hospitalized at Cleveland Clinic for 30

days then but I was in and out of the hospital commencing January 5, 1985 for a total of 8 months, in and out. Plus, I had a bleeding ulcer also.

Crohn's disease is in the colon. They can remove it sometimes. They removed the biggest part of my colon and was able to resect it. But I will—the rest of my life I will never be well.

Senator METZENBAUM. You had two heart attacks as well?

Mrs. FREDERICY. I had two heart attacks July 2 of this year. I was in the hospital for 11 days. Then they wanted to release me after 5 days on that stay. I was in coronary because of this predetermination thing. This is—in effect, my doctor got in contact with them and they said—they gave me further stay. Then I had heart catheterization and so forth. And my estimation now, they agreed to pay the bill up to the 10th day. The 11th day we are going to be responsible for.

Mr. Fredericy is an uncontrollable diabetic and has high blood pressure. We have prescriptions amounting up for him for $357.95.

Senator METZENBAUM. You have no insurance at all now?

Mrs. FREDERICY. No, nothing at all. And we have legally adopted our granddaughter. We have had her since she was 2 days old and she is 5 now, so we have her to worry about. She will be starting school in September. She is going to have to have her shots and so forth.

Senator METZENBAUM. She has no coverage?

Mrs. FREDERICY. No coverage.

Senator METZENBAUM. Mr. Fredericy, how long did you work for Repbulic Steel?

Mr. FREDERICY. 33 years.

Senator METZENBAUM. You are 51 now?

Mr. FREDERICY. I will be 51 in September.

Senator METZENBAUM. At this moment you have medical expenses, you have drug expenses, and both of you, Mr. and Mrs. Fredericy, have had some medical difficulties, is that correct?

Mr. FREDERICY. Yes, Senator.

Senator METZENBAUM. What are those difficulties?

Mr. FREDERICY. I have high blood pressure, I'm a diabetic, I have bad nerves.

Senator METZENBAUM. Mrs. Fredericy, your bills for prescriptions run about how much each month?

Mrs. FREDERICY. I haven't broken it down to months, so I would say close to maybe $200. Because the reason I can't give you exact amounts, they just started me on this new heart medication. I'm taking three heart medications.

Senator METZENBAUM. Mr. Fredericy, you worked for the company for 33 years, since you were 18 years of age. What is your mental state, how do you feel about what has happened to you? You have high blood pressure, you have been under lots of pressure of a physical nature, what does this kind of decision on the part of the company, what does that mean to you?

Mr. FREDERICY. When I come out on July 17, when I was—I told my wife that another pensioner, Mike Levy, told me LTV filed bankruptcy. Well, I got down. I don't think LTV is doing anything for the pensioner now or in the future.

Senator METZENBAUM. Do you think you gave them the best years of your life?

Mr. FREDERICY. Yes, sir. That's the only skill I have, working for LTV-Republic Steel. LTV.

Senator METZENBAUM. What did you do for them?

Mr. FREDERICY. First I worked on the bar mills, I was a loader, then a check recorder and when they shut the bar mills down about 4 or 5 years ago, I was a scarfer helper.

Senator METZENBAUM. Anything else you would like to tell this committee, either of you?

Mr. FREDERICY. No.

Mrs. FREDERICY. I'm very discouraged, in fact, because I felt when we were married, he had a stable job, security, and we worked hard. We paid our home. We had to remortgage our home for the medical bills, for bills that were left from Cleveland Clinic and things. Now we stand a chance of losing our home if we have nothing coming in. I don't know if we are guaranteed our pension now or not.

His regular pension—he took that early retirement where he was told he would get $400 bonus which we would have been able to survive on, not luxury-wise, but to survive. And now it has set us both back. I don't know where it is going to end.

Senator METZENBAUM. Before this hearing concludes, we will hear from Kathy Utgoff, executive director of the Pension Benefit Guaranty Corporation. She has been kind enough to come out from Washington and testify.

I thank you very much for your testimony. And now let's hear from Mrs. Hunt from Warrensville Heights, OH. Tell us about yourself and your husband, Mrs. Hunt.

STATEMENT OF MRS. EDDIE HUNT

Mrs. HUNT. Senator, Congresswoman Oakar, Congressman Traficant. My husband had brain surgery 2 years ago so I have a 74-year-old baby that I have to take care of. Last year in February he had to go to the hospital. We had all the doctor bills that I kept sending to Metropolitan. I got the runaround. Fill them out. I went to one of the officials from the union.

This year he had to go to the hospital in March. I have outstanding doctor bills. And I have called Metropolitan and I get the runaround. You have to go back to the doctor and have this filled out. And it's the same forms that we filled out for the last 2 years.

I have medical bills. I have a doctor coming to the house. I have his prescriptions that were running me—to keep him at home—as high as $700 a month because he has to be—excuse the term—diapered and taken care of. He is like piddling.

If it wasn't for my daughter coming to help me, I don't know where I would be because I can't afford to put him in a home and to keep buying a lot of stuff that he needs, that has to be taxed. I still don't know which way to turn.

Now, Senator, you mention about Blue Cross. I have a friend up in New York State, the husband passed away. That was his insurance along with her husband's pension. Five months after he

passed away, from $75 a month they went up to $225 a month, which she couldn't pay.

Is this what is going to happen to us pensioners when our husband's go? What are we going to do? We have to live. I am going into my 70's. I have arthritis that is starting to cripple. I don't want to be a burden to my daughter. I still want to have a home, I don't want to live and depend upon somebody else. This is what is scary.

Senator METZENBAUM. How long did your husband work for Republic Steel?

Mrs. HUNT. My husband worked at Republic for 29 years. In the 29 years, Senator, we never sat down to a Thanksgiving dinner. He had to work. When it came to Christmas if he worked one shift, "Well, I have to hurry because—well, we'll eat a little earlier today because I have to be there."

Then I picked up the paper and see the enormous bonuses that they are getting. Where is their compassion? If it wasn't for my husband and other pensioners, where would that company be?

Senator METZENBAUM. The million dollars in bonuses the company executives received while the company was losing money?

Mrs. HUNT. Yes. And on top of that he has emphysema and it's not from smoking. I had told the doctor in the hospital. It was steel dust, which was never taken into consideration.

Senator METZENBAUM. In order for your husband to be—apparently he cannot turn himself in bed?

Mrs. HUNT. No.

Senator METZENBAUM. Your daughter has to leave her work twice a day——

Mrs. HUNT. That's right.

Senator METZENBAUM [continuing]. In order to come home to move him?

Mrs. HUNT. That's right.

Senator METZENBAUM. Did you make any effort to obtain help, a nurse's aid?

Mrs. HUNT. Yes. I was told from his insurance that is maintenance, you can't get help. I couldn't get it because they said that is maintenance. "What do you mean maintenance?" I have to have somebody that knows how to pick him up. My body is black and blue from picking him up and trying to hold him so that he could get a little bit of circulation.

I have done a lot of crying, Senator. And I think as a taxpayer of this country, this country sure isn't caring for their old people. And I think it is about time this country turned around and did something for us. You know a lot of people, you can hear them saying "Oh, you see the pensioners running to the bank to deposit their money." "Boy, they are down in Florida." I wish they would have my burden and some of the other ones.

You know, you go to the drugstore and it is nothing to give out $50 for a bottle of pills. You bring them home and maybe the next time, in 7 days, a doctor will come in and say, "Well, we'll have to try something else."

My husband just tried a new drug. His legs are crossed. I struggle with him—"Please, get up." I have been married for 51 years and there is no way that I will put him in a home for him to die

there. Just like the gentleman says, "You know what, darling, they bring you in the front door, they take you out the back in a basket." Don't leave him.

As long as I can live, with my daughter's help, I will help. But I hope this country can help us because there are millions of others just in the same shape. What is this country doing for us?

It's all—you pick up the paper—what they are doing for the foreign countries. Gee whiz. The manufacturers here, the shoe department, no matter what you get, it's made over there. What about our young people, how are they going to live? I'd like to know how my grandchildren, great-grandchildren will live?

Senator, if it wasn't for you and your colleagues downtown in Washington, where do we turn? Who can we turn to?

And I still say you can't rely on—who is to give us any understanding? Because they can have it 1 day, 1 month, one way and they will sock it to you the rest.

How are we going to survive? Are we going to be another—looking for handouts at our age? Please, I implore you to help us.

Senator METZENBAUM. All I can say to you is amen. You couldn't have said it more eloquently and there is not much we can add except to say we'll try.

Mrs. HUNT. Thank you; that's all I ask.

Senator METZENBAUM. Mrs. Lemmens.

STATEMENT OF LILLIAN LEMMENS

Mrs. LEMMENS. Senator Metzenbaum, Ms. Oakar, and Mr. Traficant. I have worked for Republic Steel for 33 years and I'm a non-bargained-for employee. I am one of thousands.

We had a luncheon last Thursday where we had, just from the Cleveland area, over 460 retirees. After giving 33 years, I now have no pension, no insurance, no medical insurance, and no life insurance. That's from the company.

My husband last year developed cancer. I have many doctor bills. Up to May 1, I will say, Blue Cross and Metropolitan did take care of the bills. But as of June, they haven't paid them yet. I have over $4,000 worth of bills, that does not include some of the surgeries. I have cashed numerous checks and here is one that bounced. The doctor had three checks that bounced from the insurance checks.

Senator METZENBAUM. How much were those checks for?

Mrs. LEMMENS. One was for $567 and I believe Mr.——

Senator METZENBAUM. I have it here.

Mrs. LEMMENS. I have one here for $45 for myself and there is two for somebody else the doctor gave.

Senator METZENBAUM. We are going to put all of those checks in the record.

Mrs. LEMMENS. Thank you, sir. If you can do anything for us non-bargained-for people, we would certainly appreciate it very, very much, anything that you can do. Please help us.

Senator METZENBAUM. Mrs. Lemmens, you said that you have $3,000 in hospital bills; is that correct?

Mrs. LEMMENS. Approximately, yes. I have for June and for some of it in July.

Senator METZENBAUM. Did you think that was going to be covered by Blue Cross?

Mrs. LEMMENS. Yes. Yes; it was. I have belonged to Blue Cross for over 43 years. Either I paid it or the company has paid it, for 43 years. Then all of a sudden they say, "You have no more insurance." Period.

Senator METZENBAUM. You worked in the general accounting office of Republic?

Mrs. LEMMENS. Yes; I did, sir.

Senator METZENBAUM. You now have no health insurance, no life insurance?

Mrs. LEMMENS. Yes, sir.

Senator METZENBAUM. How do you expect to live?

Mrs. LEMMENS. Well, we do have a little savings that we are going to have to start into now because this is the first time we have really been hit with any disaster.

Senator METZENBAUM. Both you and your husband are 65 years of age?

Mrs. LEMMENS. Yes, sir. He just became 65 on July 1.

Senator METZENBAUM. The $3,000 bill was for your husband when he was in the hospital?

Mrs. LEMMENS. Yes.

Senator METZENBAUM. What was wrong with him?

Mrs. LEMMENS. Cancer.

Senator METZENBAUM. You did say that. I'm sorry.

What kind of care will your husband need in the future and how will you be able to afford it?

Mrs. LEMMENS. He will have to go back into the hospital. This just started last week as of—for 3 days for chemo. It's a special kind of a chemotherapy that they now give that you have to be in the hospital for 3 days. That will be every 6 weeks.

Senator METZENBAUM. And do you have any idea what those expenses will be?

Mrs. LEMMENS. I can't, because this is some new drug and drugs really amount to quite a few——

Senator METZENBAUM. It won't be cheap.

Mrs. LEMMENS. It's going to be over like $300 or $400, each treatment.

Senator METZENBAUM. Plus the hospitalization?

Mrs. LEMMENS. Yes.

Senator METZENBAUM. Plus the stay in the hospital?

Mrs. LEMMENS. Yes, sir.

Senator METZENBAUM. Is there anything else that you would like to tell this committee, Mrs. Lemmens?

Mrs. LEMMENS. Just that before I retired, and after we retired, they always told us, the executives, "You have nothing to worry about because your money is invested, that you always have a pension and you will have your benefits." Then all of a sudden we find out that LTV has dipped into our funds. Is this right?

Senator METZENBAUM. No.

Mrs. LEMMENS. Thank you.

Senator METZENBAUM. Mr. Fisher, I'm happy to hear from you, sir.

STATEMENT OF RICHARD FISHER

Mr. FISHER. Thank you, Senator. I'm proud to be here today and express my opinion about what happened at LTV Steel.

It was devastating when I received the notice in the mail that my insurance was gone and my hospitalization was gone. Fortunately, because I belong to the Kaiser Foundation plan and under that plan when I called them, they told me that my hospitalization was paid to August 1. After that I had a 30-day grace period. In that time they hope to come up with a plan, a group plan to make the hospitalization a little cheaper.

But even so they told me it would cost me $104 a month as it stands now, because it was Medicare, it is a little cheaper. But that covers my wife and I both.

Even so, considering the fact that it costs me about $250 a month for medications, which is covered by my wife's plan now. And she's about ready to lose her job, which means I would have to pick up $250 myself, which means I stand a chance of having to eat, every month, about $350. And on my present income it means I'll be going into debt over $1,100 a month. My total income between my pension and Social Security is only about $963 a month. Actually, it would be mean going into debt for $400 a month and I just can't afford it. I don't know what I am going to do.

Senator METZENBAUM. How long did you work at Republic Steel?

Mr. FISHER. Twenty years.

Senator METZENBAUM. And you retired under what circumstances?

Mr. FISHER. I retired because I had a stroke; that's what's wrong with my left hand. I couldn't work anymore.

In 1983 I lost my left leg and I had polio in my right. Right now Kaiser is providing me with a nurse.

Senator METZENBAUM. Let's go back. You have a dead hand?

Mr. FISHER. Right.

Senator METZENBAUM. You lost one leg?

Mr. FISHER. Right.

Senator METZENBAUM. You had a stroke?

Mr. FISHER. Right. My right leg is useless due to polio so I have only one hand left to use, that's all I've got. I live by myself, take care of my own apartment. And I'm going to be losing that because I can't afford to pay for staff to come in and take care of the apartment for me. After this accident I had, the automobile accident, my right shoulder bothers me. I can't lift anything heavy, so I am stuck. There is nothing I can do.

I don't think it's right for LTV Steel to come along and stick their hands in my pockets—stick their hands in our pockets and take rights away from you. That's money in our pockets were worked for and earned.

My God, something's got to be done to stop it. The people don't deserve it. We worked hard enough as it was. And we did work. And they are taking it all away from us. How do we know LTV Steel, after going bankrupt, isn't going to turn right around and buy the company back without all those bills? You don't know what's going to happen. We are in the dark. It's devastating to think what can happen.

Myself, I will probably end up in bankruptcy. Kaiser—my doctor wants me to go to a nursing home. The social worker at Kaiser investigated. She said I'm not making enough money to afford to go into a nursing home. What am I going to do, shoot myself? I can't live with what I have. I've got nothing to look forward to.

Senator METZENBAUM. I just want to say to this audience that I have sat through a lot of hearings and I don't know of any that have been more telling about me as a human being. It actually brings tears to my eyes to hear about what has happened to some of you people because there is such a sense of hopelessness and concern. And heartlessness on the part of the company.

We are going to get this bill through. We are going to require them to meet their obligations one way or the other. In some way we are going to try to restore your health and life insurance benefits. It just isn't right what is happening to you.

Mr. Ralph Hennie, you are here, I think, representing the salaried retirees of Republic Steel. Their problems are every bit as important to us as the union members.

STATEMENT OF RALPH HENNIE, PEPPER PIKE, OH, REPRESENTING THE SALARIED RETIREES OF REPUBLIC STEEL

Mr. HENNIE. Thank you. I am here today as a representative of Republic Steel Corp.'s salaried employees as a class.

First, I want to thank you, Senator, and all of your colleagues on the panel for your interest in the problems created by the LTV filing in bankruptcy court.

We, as a class similar to others, have had our monthly pensions suspended, our life insurance canceled and our medical insurance canceled. These actions by LTV Corp. have caused many hardships and problems for many people and will cause many more if allowed to stand.

It is our understanding that the LTV Corp. in its agreement with Republic Steel Corp., agreed to maintain Republic's pension and insurance programs. We would ask that you and your committee aid us in the court system to see that these programs are reinstated at once.

The most critical of the programs required now is that of the medical coverage. There are a number of people who are either now on or under hospital care or who have hospital and doctor bills due that are not being paid. Help and action at once is critical.

The monthly pension payments need to be resumed as soon as possible because many retirees depend basically on these funds to maintain their monthly living. And many hardships are developing because of their inability to pay their bills.

Thank you for allowing me to speak for this group of retirees. We believe that these benefits we have earned for our many years of service should be reinstated at once and your help in the courts to see that this end will be accomplished, will be greatly appreciated.

We would hope that you also can get us covered in the bill that you are presenting in Congress, so that the salaried people can get their benefits. Thank you.

Senator METZENBAUM. How many salaried people do you speak for?

Mr. HENNIE. Something over 7,000 Republic salaried retirees.

Senator METZENBAUM. Do they feel an even greater sense of helplessness because they are not organized, they don't have a union to speak for them and they don't have a private lawyer to come in and go to court for them? And is there a sense of helplessness, maybe even a little greater in some respect?

Mr. HENNIE. I believe there is a great sense of helplessness on the part of many people. We are trying to organize ourselves and maybe I will talk to Frank a little bit about that. And we are attempting to get some recognition in the Bankruptcy Court for this group.

Senator METZENBAUM. I want to repeat again, we will make every effort at the legislative level to protect the rights of the salaried employees just as we will make an effort to protect the rights of the employees who have the collective bargaining agreement. We think their problem is every bit as real as their problem.

Mr. HENNIE. Thank you, we appreciate your efforts.

Senator METZENBAUM. Congresswoman Oakar, do you have some questions?

Ms. OAKAR. Mr. Chairman, I just want to make two quick points. First of all, I want to thank all of the people for telling us their stories which I think mirrored the problems, you mirrored what everyone is going through.

One quick point is that I believe, and I hope I'm not wrong, but I believe that the health benefits were covered for an additional month as of last week, which hopefully would give some time for Senator Metzenbaum's bill and other activities before we recess in August to, hopefully, if it's possible, get fruition. There is enough national momentum. Now, we were told that by the Federal corporation. If that's misinformation, then I stand corrected.

But the other thing that I would like to point out is the amendment that I and Marty Frost of Texas, which is the international headquarters of LTV, drafted. It was introduced by Jay Pickle in the Ways and Means reconciliation bill last week that provides for—and this is only an interim approach, again, because I fully support your getting your full benefits back. Period. And not this interim approach.

But it provides that retirees who lose their Blue Cross benefits as the result of a company reorganization chapter 11 bankruptcy, the option of paying the group insurance themselves at a group rate and retaining group coverage. So it would mandate that you be able to pay for it in the interim until you get—and it's a quick fix kind of approach, but in the interim.

But that is part of our reconciliation in the House side. And it will go to the Senate side, which I believe will be taking place early this week. Hopefully, the Senate will retain that.

That's only an interim attempt to give you at least some kind of an opportunity to be covered. I want to just say that I will just do everything in my power to relieve your anxieties and get fairness. It is a question of fairness.

And I want to join Senator Metzenbaum in all that he is doing. And hopefully we will get some help with that tax bill as well.

Senator METZENBAUM. My understanding of the situation at the moment is that the hospitals in northeast Ohio announced that they would treat any LTV retiree in need of acute care, regardless of the status of that person's hospitalization insurance. It is also my understanding that Blue Cross—we will hear from Mr. Patton on that subject later—that Blue Cross has indicated that they will not continue to provide coverage unless certain other factors occur.

I think, Mr. Valenta, you had some comment you wanted to make?

Mr. VALENTA. I just want to point out that the letter that I just made reference to in my presentation, it does say, Congresswoman Oakar, that effective immediately that it would be cut off. And that's the case. We have been getting phone calls and these people are being turned down. Like the one I received yesterday, where this retiree had his wife scheduled for a kidney transplant, had to have it canceled, and that's the only thing that would save her life. So it is effective immediately.

Mrs. HUNT. Senator, may I say something?

Senator METZENBAUM. Yes.

Mrs. HUNT. I had called Blue Cross when I received the letter because my husband—they wanted to put him in the hospital. When I called Blue Cross they said, "You have no coverage. You will hear from us soon." And that's it. So I wouldn't put him in because I can't afford it.

Ms. OAKAR. I don't understand how—and unfortunately, I'm not going to be here but I will be calling Jimmy Patton afterward. But we shouldn't put the whole jacket on Blue Cross. I am glad that they are here but there are other health providers as well.

I don't understand how they can take it out of your check, as this woman had testified, Mrs. Fredericy had testified, and indicating you paid $137 or so dollars covering you through September, how can they retract that? That's your money, you paid for it. That's an advance payment. How can they take it away from you, no matter what anybody says?

Mrs. FREDERICY. They told us that LTV had never turned over payments to Blue Cross, that is why we are not covered. I have it in black and white, right here on this pay check.

Ms. OAKAR. Is that the case of all of you, that you have paid for it in advance?

Mrs. FREDERICY. Yes.

Ms. OAKAR. Well, I think that clearly—it seems that if you were covered, then that would give us the lead time that we need to pass the kinds of legislation that we are trying to work on. And because of that aspect, clearly something is really rotten in the State of Denmark, to say the least. Thank you.

Senator METZENBAUM. We will hear from Jimmy Patton and let him explain the position of Blue Cross in this matter and I think it is only fair that everybody be given that opportunity. Congressman Traficiant.

Mr. TRAFICANT. Thank you, Senator. I would just like to make a comment that in listening to the testimony of this particular panel I think everybody here, our hearts go out to you. We will do all we can to help you.

I have a few specific questions I'd like to put on the record. I'd like to say first of all, sending $14.5 billion overseas with Americans experiencing the troubles that we have here, similar to this, in my opinion, is a cardinal sin in this country.

Specifically, though, first of all for Mr. Fredericy. When you accepted early retirement, did the company give you verbal and specific assurances that these particular matters we are discussing here today would be taken care of and would not be a problem for you in your retirement?

Mr. FREDERICY. Yes, sir.

Mr. TRAFICANT. Fine. Mrs. Hunt, you testified that you were told on or about your retirement day that your particular pension funds were invested. Could that have been the word "vested" instead?

Mrs. HUNT. Vested instead? Yes.

Mr. TRAFICANT. Vested not invested?

Mrs. HUNT. Yes.

Mr. TRAFICANT. They told you your pensions were vested, in those specific words. Fine.

To the committee at large, has anyone tried to organize you into a position of having any legal defense or representation or defense in this specific matter now pending before the court?

Mr. FREDERICY. No.

Mr. TRAFICANT. Do any of you have any—yes, Mr. Hennie.

Mr. HENNIE. Yes. The salaried group has formed a committee and we do have two representatives in New York today for the hearing at the Bankruptcy Court and we are trying to organize ourselves and see if we can represent ourselves.

Mr. TRAFICANT. Fine. Anyone from the nonsalaried section, to your knowledge, do you have any representation of any kind in supporting you collectively?

Mr. VALENTA. The representation is provided by our union, Congressman. And I can assure you that we have representatives at the hearing in New York.

Mr. TRAFICANT. And you are, in addition to those current employees and the problems they face now, on behalf of the retired so effected, providing them with counsel?

Mr. VALENTA. Absolutely.

Mr. TRAFICANT. I just commend each and every one of you and the problems that you bear. I think it's a shame that we have to hear this kind of testimony in America and I would do all I can to support Senator Metzenbaum in his efforts, and the committee.

Senator METZENBAUM. Thank you very much, Congressman Traficant.

I want to thank, on behalf of all of us in Congress, your willingness to come forward today and tell us your stories. We will do everything possible to pass legislation necessary and see if we can work out a plan with Blue Cross to reinstate your benefits promptly. Senator Glenn and I had a meeting in his office the other day talking with Blue Cross and with the representatives of LTV as to a procedure that might be followed.

It is my understanding that LTV may make some announcement today, somewhere around the noon hour. But I don't want to get anybody's hopes up because I'm not exactly certain what that announcement would be nor, when I was told about it, do I think it is

a satisfactory announcement. But I do want you to know that every possible effort will be made legislatively as well as personally by all of us involved.

Thank you very much.

AUDIENCE—SAM STRAW. Senator, do you know they told—I had a stroke 7 weeks ago. So I had to go to the doctor and it cost me for a prescription for 7 weeks. Friday I went to the doctor and he says, "Go on home. You ain't got hospitalization or Medicare." I said, "What should I do?"

"Well, you can go to Veteran's, go there. And they can call me up if you go." If they want any information, they will send it to the Veteran's Hospital. I'm supposed to have this vein cleaned out. And he says. "That's tough. You ain't got nothing." He will give that information to the Veteran's Hospital.

And that's the kind of treatment you get for working down there for 30 years.

Senator METZENBAUM. I don't want to start taking testimony from the audience. I'm afraid if I do, I will not be able to hear our next two witnesses and I think those two witnesses are——

AUDIENCE—ROBERT SHILTZ. One minute, Senator Metzenbaum. Two questions, quick. The first thing is, like the lady says, we did have the money to deduct to the first of the month for our hospitalization. I, too, was in the hospital and I was cut out. Period. That's the first thing.

The second thing is that the hundreds of thousands of millions of dollars that was donated to the top people up there in order—in case that our union would go in there they'd say that we have nothing to pay out with. That's the second thing.

The third thing that they are representing right now is to go into that there factory that I worked day and night to try to get it together in Republic Steel and make a good job out of it, they are going to go in there now and say we have no money, we had to cut it off of the retirees even and we have to take more concessions.

And the company right now is going to do that and our employees are going to lose part of their salary. And this is just the beginning.

Thank you, Senator Metzenbaum.

Senator METZENBAUM. Thank you very much.

Our next witness is Kathy Utgoff. Kathy is the executive director of the Pension Benefit Guaranty Corporation. We are pleased that she is with us this morning and I know she made a special trip out here and I personally want to express my appreciation for her joining us.

STATEMENT OF KATHLEEN P. UTGOFF, EXECUTIVE DIRECTOR OF THE PENSION BENEFIT GUARANTY CORPORATION

Ms. UTGOFF. Mr. Chairman and members of the Ohio delegation. I'm here as the executive director——

Senator METZENBAUM. Can we get things quiet over there, please? If the media wishes to speak with some of the witnesses, will you be good enough to go outside, please? We are under a time constraint.

We are very happy to have Ms. Utgoff with us and I certainly want to hear her testimony.

Ms. UTGOFF. Thank you. I'm Kathleen P. Utgoff, executive director of the Pension Benefit Guaranty Corporation, the Federal agency that protects the retirement income of more than 38 million workers and retirees in more than 112,000 private sector defined benefit pension plans. The PBGC's insurance program is financed by the premiums paid by plan sponsors, by investment income, and by recoveries from employers.

Clearly, a major concern here today is the status of retirement benefits of present and future retirees in the LTV Steel plans. Let me begin by stating that none of LTV's major steel plans has terminated. These pension plans are currently in force and the plans are paying pension benefits to retirees. A bankruptcy filing does not affect the payment of pension benefits to retirees. The defined benefit pension plans of LTV Steel Corp., including the plans for hourly and salaried employees, are covered by the PBGC insurance program.

The PBGC pays benefits when an insufficiently funded plan is terminated by a plan sponsor or when the condition of the pension fund necessitates our taking independent action to terminate the plan. In these cases, the PBGC becomes trustee and makes the benefit payments to retirees, using insurance program funds to supplement planned assets. Over the last 11 years more than 1,300 plans with 200,000 vested participants have been trusted by the PBGC.

Today I will briefly explain how the PBGC insurance program works and which benefits are guaranteed. In addition, I have brought information with me—we have left copies of booklets—in the hall that answers many of the questions that are frequently asked by retirees and workers.

Under the provision of the new law that was enacted in April of this year, which is known as the Single Employer Pension Plan Amendments Act, an employer may no longer terminate any insufficient plan and force the PBGC to step in. Under the new law which became effective January 1, 1986, an employer must demonstrate that its financial condition would be severely jeopardized by continuation of the plan.

To proceed with the termination, an employer is also required to provide both the plan participants and the PBGC with a notice of its intent to terminate the plan. Such notice must be provided at least 60 days prior to the date on which the employer proposes to effect the termination. Thus, if LTV should decide to terminate its pension plan, it would be required to alert participants and beneficiaries well before the acutal termination date.

The PBGC also has statutory authority to seek termination of a pension plan. To do this, the PBGC must determine that one or more of several clearly prescribed statutory requirements are met. And it must petition the court to terminate the plans. The PBGC has exercised this authority very infrequently and would only consider doing so in cases that clearly qualify under the law.

The PBGC does seek involuntary termination when a plan clearly has no assets to pay benefits. When this occurs, the PBGC notifies plan participants that it has become trustee of the plan. We

make every effort to assure that there is no lapse in the payment of pension benefits.

On July 17, LTV Steel sent a letter to retirees and surviving spouses in the Republic Steel salary plan stating that monthly funding in the pension plan could no longer be continued and that this would most likely result in the termination of the plan by the PBGC.

PBGC, along with many congressional representatives, received calls from retirees concerned about their August pension checks. The August pension payments are not in jeopardy. LTV has informed us that the pension plans will make the August 1st benefit payments. While the PBGC has no immediate plans to terminate the pension plan, we are monitoring the situation very closely and we will step in, if necessary.

Let me point out that I think Congresswoman Oakar was talking about that statement by LTV that they would continue the August 1 pension plan payment. The Federal Guaranty Corporation has made no statement about other benefits, such as life insurance or health benefits, which we do not cover.

Let me just describe in general terms the benefits that are paid by PBGC when it does assume responsibility for an insufficiently funded plan that has terminated. In general, the PBGC guarantees vested pension benefits, subject to some statutory limitations. In plans that we trustee, our guarantee extends to about 90 percent of the basic vested benefits that are paid to retirees before the termination. In most pension plans in the steel industry, the vast majority of participants are vested. Thus, it is likely that most of the participants in LTV Steel plans do have a pension benefit that is guaranteed by the PBGC.

PBGC also provides protection to spouses of plan participants. This protection applies regardless of whether the participant dies before or after retirement, unless the participant and the spouse both choose not to have it. Thus, both retirees and surviving spouses can expect to continue to receive their pension payments on a regular basis in the event that their plan terminates. However, these payments may be subject to some reductions that I will describe.

Vested participants who are not retired at the time their plan terminates can also expect to receive their pensions as they become eligible for them. These benefits are also subject to some limitations. Let me describe these limitations. The PBGC guarantee extends only to benefits that participants are eligible for when a plan terminates. Thus, some of the options that are available under the ongoing plan might not be available to participants who are not fully eligible for them at termination.

For example, steel plans often provide the "30 and out" benefit which allows a participant to retire after 30 years of service, regardless of age. Participants who do not have 30 years of service at termination would not be eligible for this benefit, even if they continued to work and reached 30 years of service with the employer after the termination. The PBGC does not guarantee nonpension benefits such as health, life insurance, or vacation pay benefits, even if these benefits are provided as part of the pension plan.

In addition, the PBGC does not pay benefits in excess of normal retirement benefits such as temporary supplements that are sometimes paid until eligibility for Social Security begins.

The PBGC does not guarantee all increases in benefits that have been very recently adopted by the plan. We understand that there have been very few benefit increases under the LTV plans. And if that is the case, this limitation will not have a significant impact on the participants of the LTV plans.

There is also a statutory cap on the amount that PBGC may pay. This year the maximum benefit is $1,789.77 per month for level payment amounts beginning at age 65 when there are no survivor benefits. This maximum is adjusted to reflect other forms of benefits and the age at which the benefits start. In a steelworker plan, this limitation may affect persons who receive very large benefits at early ages. This limitation rarely applies in hourly plans. For the salaried plan with much higher benefit levels, the maximum limitation is more likely to lead to benefit reductions.

In the event that the LTV plans terminate, the PBGC would move quickly to assure uninterrupted benefit payments. We would estimate guaranteed benefits and then estimated benefits would be paid until a final determination of guaranteed benefits can be completed. If our estimates are lower than the final determined benefit levels, we make up the difference in interest. We must also recover overpayments. Any recoveries will be subject to regulations that limit the amount of money which can be reduced.

Let me conclude by saying that I want to assure vested participants in the LTV Steel plans that they will, under any circumstances, have a retirement income. The benefits of participants in LTV Steel plans are protected by the PBGC. These plans have not been terminated. If they are terminated either by LTV or by the PBGC, participants will be notified. Because most of the participants in the LTV Steel plans are already vested, most of the basic benefits would be paid by the PBGC in the event of termination.

I would also like the Members of Congress to know that while the benefits of LTV are protected, the termination of the LTV Steel plans would place an enormous burden on an already financially troubled program. While the PBGC has sufficient assets to meet its current pension payments, we do not have enough assets to pay for all the promises that we have made.

The financial problems of the PBGC would grow enormously if the LTV plans terminated. The program's current deficit, which is already a cause of great concern, could double overnight. Unless something is done, PBGC will not be able to keep its promises. Because I believe firmly that a sound pension insurance program is vital to the retirement security of American workers, it is my hope that we will work together to make the future as secure as the present. Thank you.

Senator METZENBAUM. Thank you, Kathy. With respect to pensions, that certainly was a bright note, at least the only bright note we have heard all morning.

Ms. Utgoff, you have a gentleman with you this morning.

Ms. UTGOFF. This is Dave Gustafson. He's head of our actuarial policy division and he's here to help me answer some of the more technical questions that arise in a steelworker plan.

Senator METZENBAUM. Thank you. I don't think we are going to ask you any technical questions because I think we are more interested in what I consider to be an overview and that is, are the pensions going to be paid or aren't they going to be paid? And I think you very well addressed yourself to that issue.

Let me ask you, do you know how large LTV's pension deficit is?

Ms. UTGOFF. Right now we estimate underfunding for guaranteed benefits, not including due and unpaid contributions, to be $1.7 billion.

Senator METZENBAUM. $1.7 billion——

Ms. UTGOFF. Yes.

Senator METZENBAUM [continuing]. Is the amount of underfunding. How does that compare with other plans

Ms. UTGOFF. The largest single termination, as you know, that we have had to date, was Wheeling-Pittsburgh, which we considered at the time out of the ballpark. It was $475 million. So this is three, almost four times that.

Senator METZENBAUM. I want to say that in connection with the Wheeling plan, you and I had many meetings on it, many discussions on it, and we were finally able to work it out. I appreciate your cooperation for bringing about that satisfactory conclusion. I hope we don't run into a termination situation here because the problem of the funding for it, although it will be paid, still will create horrendous problems as far as the Government is concerned, as far as the PBGC is concerned.

How did the LTV deficit get to be so big?

Ms. UTGOFF. The bottom line is, of course, that they didn't put enough money in the plan.

Senator METZENBAUM. They didn't pay the bills?

Ms. UTGOFF. Right. The big problem with the LTV Steel plans, and particularly with the Republic salary plan, is lump-sum payments. There were a large number of lump-sum payments that were made from the plan which exacerbated an already bad situation.

Senator METZENBAUM. Do you know, were those made at the time LTV took over Republic Steel or were they made more recently?

Ms. UTGOFF. Many payments have been made recently.

Senator METZENBAUM. Let me make this observation publicly. I'm not a bankruptcy lawyer but I know enough about the bankruptcy laws to know that a payment made—and I believe the period of time is 1 year—can be within a year of the time of filing for bankruptcy, may very well be a preferential payment.

If some of the executives are in that position that they received—took their lump-sum settlements and in that way depleted the funds, I believe that the bankruptcy court and the bankruptcy trustee is going to have to take a pretty strong look at that issue. Because I am concerned about that subject and because it might mean that the retirees got their lump sums out and left, knowing of LTV's financial condition.

When we met with LTV the other day in Washington I asked the company for a list of the payments that had been made in lump sums and to whom they were made during the past year and I expect to explore that subject as a separate issue from some of the

others. But I think it is one that I think that concerns the PBGC as well as the others who were covered by the pension plan.

Would you agree with that?

Mr. GUSTAFSON. Most definitely. We are looking into it also.

Senator METZENBAUM. I think you already said that if LTV decided to terminate its pension plan, they would have to give 60 days' notice?

Ms. UTGOFF. That's correct.

Senator METZENBAUM. PBGC now holds a security interest on the aerospace stock that LTV owns; is that correct?

Ms. UTGOFF. Yes, Senator.

Senator METZENBAUM. That secures their obligation for the $1.7 billion or for just a portion?

Ms. UTGOFF. No; it only secures the last funding waiver in 1985. LTV received a waiver of minimum contributions for the 1984 plan year for $175 million. That waiver was secured by an interest in the stock of LTV Aero.

Senator METZENBAUM. So that PBGC is secured to the extent of $175 million by that stock but not more than that?

Ms. UTGOFF. Not more than that.

Senator METZENBAUM. LTV needs to make a payment of about $200 million in September to its pension plan. What options are available to the company?

Ms. UTGOFF. There are basically two options. One, is to put the money into the plan, the other is to seek a waiver from the IRS.

Senator METZENBAUM. Do you have an opinion as to whether that waiver would be granted?

Ms. UTGOFF. Our position is that if a waiver were granted — as you know we have limited authority over the granting of the waiver — we would seek to have any additional waiver have security just as the past waiver did. I think the events have shown the wisdom of our receiving that security. If any waiver were to be granted in the future, we would seek to make sure that it was secure.

Senator METZENBAUM. As I understand the point you made in your testimony, you anticipate working with us in the Congress, the union and the companies, in order to secure the financial stability of the PBGC.?

Ms. UTGOFF. Yes, Senator.

Senator METZENBAUM. And I want to assure you we are as interested in that subject as you are. We appreciate the fact that you can't have a viable fund if the money isn't there. And therefore, we worked before on this subject and I think we have some more work to do on that, but I'm not exactly certain what the answer is.

In what shape are other steel company pension plans?

Ms. UTGOFF. In general, they are not very well funded. I think we calculated that all but two of the top steel companies had underfunded pension plans.

Senator METZENBAUM. What's the impact of these underfunded plans on the pension insurance system?

Ms. UTGOFF. Over 50 percent of our claims to date have been from the steel industry so that the problems of steel have already had a major impact on the PBGC. If LTV were to terminate some of the other plans, that would be close to 75 or 80 percent. So that

much of the financial problems of the PBGC can be attributed to the steel industry.

Senator METZENBAUM. Do you feel that the PBGC is in some way being asked to subsidize the steel industry at this point?

Ms. UTGOFF. Some parts of the steel industry. And those parts are the ones with underfunded pension plans that are in financial trouble. There are steel companies that have well funded pension plans that are not in financial trouble. So we are really stepping in to prop up the bottom.

Senator METZENBAUM. Congressman Traficant.

Mr. TRAFICANT. Yes, I have a few questions and a couple of points I would like to make.

This waiver of minimum contribution relative to that first action I believe you referred to as far as stock in the aerospace industry, what is the value currently of such stock, would you know?

Ms. UTGOFF. It is not publicly traded. When we entered negotiations with LTV for the funding waiver, we had LTV provide an outside evaluation service, a financial consulting service, Lehman Bros. I believe. It was Lehman Bros. And they valued the stock at least at $600 million, which was all that we needed for the purposes that we were securing the stock.

Mr. TRAFICANT. If some of the top steel companies are having these problems and are underfunded, what is the condition of the Pension Benefit Guaranty Corporation to insure that, in fact, what you referred to as vested benefits, in fact, will be vested and will be paid?

Ms. UTGOFF. There is no immediate danger that we will not be able to pay our existing promises or any promises that we would make to anyone in the steel industry. When we take over a plan we take over not only the liabilities of the plan but the assets of the plan.

So that we are underfunded now for all our commitments but if we were to take over the LTV plan, we would take over not only $3.6 billion in liabilities, we would take over about $1½ billion, or perhaps a little more of assets. So that that would enable us to pay benefits in the near future. It's the total commitment to the people who are now retired and the people who are vested and who will retire 20 years from now that we cannot keep.

Mr. TRAFICANT. Has the corporation ever seized the assets of any company, as such?

Ms. UTGOFF. We have undertaken what is called an involuntary termination of the plan where, in order to make sure that people stay in pay status—either the plan has been abandoned or it is close to running out of money—we go to the courts to seek involuntary termination of the plan. In that sense, we have taken over the assets.

Mr. TRAFICANT. To your knowledge—my last question, Senator—has LTV ever, under any circumstances, attempted to use any pension money over and beyond the hardship they cry but toward any expansion and/or development into any new area of development?

Ms. UTGOFF. I am aware that LTV has filed for the termination of some of its smaller plans in the course of the last year. There are a large number of separate entities in the LTV corporate structure. They have many, many pension plans. They have filed with

us to terminate at least three of those pension plans. If they do, it is possible that they could receive the excess that's in those pension plans. They are not underfunded pension plans; they are overfunded pension plans. And they have a small amount in them and that amount of money would revert to the company.

Mr. TRAFICANT. Thank you.

Senator METZENBAUM. Ms. Utgoff, would you care to comment on the condition of the salary pension plans, the salaried employees pension plans?

Ms. UTGOFF. The Republic salary plan has about $222 million of liabilities and on the order of $30 million to $40 million in assets. Some of those are not very liquid assets.

Senator METZENBAUM. So the salaried plan is in financial difficulty?

Ms. UTGOFF. Yes. All of these steel plans are in financial difficulty.

Senator METZENBAUM. But the salaried employees pensions are not in jeopardy because the PBGC would step in if there were a problem in funding, is that correct?

Ms. UTGOFF. Yes.

Mr. TRAFICANT. Senator, may I ask one more?

When LTV purchased Republic they knew they had an underfunded pension plan, an interim pension plan along the way. Did they ever meet with you, PBGC, or anyone relative to those dynamics, was there ever any assurances that they would be able to satisfy the obligation of Republic since they knew and were cognizant of those underfunded plans.

Ms. UTGOFF. We have met several times since I have been head of the corporation. We have met several times with officials of the LTV Corp. to discuss the future of the pension plans. I'm not aware, and perhaps I can find out, whether they were in any other meetings prior to that.

Mr. TRAFICANT. I would recommend, Senator, that the information she is able to obtain in those areas be made a part of the permanent proceedings here today.

Senator METZENBAUM. Would you be good enough to write us on that?

Ms. UTGOFF. Yes. That is at the time of the merger of Republic and J&L?

Mr. TRAFICANT. Yes. The fact that it was underfunded and if they had sat down and this was all discussed, if there could be an interim crisis that they may be facing shortly.

Senator METZENBAUM. You will do that, I'm sure?

Ms. UTGOFF. Yes.

[The following letters were received for the record:]

Pension Benefit Guaranty Corporation
2020 K Street, N.W., Washington, D.C. 20006-1806

SEP 16 1986

Office of the Executive Director

Honorable Howard M. Metzenbaum
United States Senator
SR-140 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Metzenbaum:

This is in response to the questions asked by you and Congressman Traficant at the close of my testimony to the Senate Judiciary Committee Hearing on the LTV Bankruptcy on July 28, 1986. Specifically, you asked whether LTV had ever met with the PBGC prior to the merger with Republic Steel to discuss the pension plans involved in that merger.

Records at the PBGC indicate that early in October, 1983, representatives of LTV met with PBGC's Executive Director and other employees to present information with respect to the planned merger of LTV and Republic Steel. These records are not detailed. The information presented at that time included actuarial and plan asset data on both the LTV and Republic pension plans for the 1982 plan years. Clearly, LTV knew that they were obtaining responsibility for at least one underfunded plan. PBGC's actuaries evaluated the data and concluded that the Republic Salaried plan would be fully funded and the Hourly plan would be underfunded by approximately $200 million for guaranteed benefits if each was terminated. Our information does not reveal, however, whether LTV's representatives indicated any awareness that the company might be facing an interim crisis shortly after the planned merger that would make it difficult or impossible to maintain those plans.

I trust that this information answers your questions. If there is additional information that the PBGC may be able to provide, please feel free to contact me.

Sincerely,

Kathleen P. Utgoff
Executive Director

Pension Benefit Guaranty Corporation
2020 K Street, N.W., Washington, D.C. 20006-1806

Office of the Executive Director

OCT 22 1986

The Honorable Howard M. Metzenbaum
United States Senate
Committee on Labor and Human Resources
428 Dirksen Senate Office Building
Washington, D.C. 20510-6300

The Honorable James A. Traficant, Jr.
United States House of Representatives
128 Cannon House Office Building
Washington, D.C. 20515

Re: The LTV Corporation: Republic Retirement Plan
Jones & Laughlin Retirement Plan

Dear Senator Metzenbaum and Representative Traficant:

We share the concerns expressed in your letter regarding the participants' benefits in the pension plans for salaried employees of the former Republic Steel and Jones & Laughlin Steel Companies. Information we have obtained from LTV confirms that about 15 percent of retirees in the Republic Retirement Plan are suffering some reduction. Benefit reductions for non-retired participants have not yet been determined. For the Jones & Laughlin Retirement Plan, which has not yet terminated, LTV estimates that retirees' benefits will be reduced to a somewhat greater degree than under the Republic Retirement Plan (the difference between the two plans reflects the fact that many of the participants in the Republic Retirement Plan who would otherwise be subject to benefit reduction for an annuity have already received lump sum benefits). Under both plans, initial reductions in benefits are calculated by LTV on an estimated basis, and are thus subject to change by PBGC after complete analysis of all necessary data. When we have sufficient information, we can inform you in detail about the initial benefit reductions.

You have also requested our assistance in obtaining information about payment of lump sum benefits under the Republic Retirement Plan (the "Plan"). LTV will soon submit complete data concerning the lump sum payments. We will then be able to provide you with detailed information on the dates and amounts of these payments. In compliance with the Privacy Act, 5 U.S.C. §522a(b)(9), we can also identify the recipients of lump sum payments following a request by your committees.

You express concern about whether any recipients of lump sum payments had inside information about the condition of the Plan. We are currently investigating the use of inside information and other forms of discriminatory treatment for some participants. We fully intend to uncover any such improprieties and to take appropriate action against responsible parties. However, as a practical matter, Plan financial information was unlikely to be a basis for most of the lump sum elections. A fixed eight percent interest rate assumption used from 1982 through 1984 for calculating the lump sum benefits made that form of benefit a very attractive one, regardless of the Plan's financial condition.

Another issue that concerns us is the prudence of the decision to use and the continuing use of the fixed eight percent interest rate to calculate lump sum benefits. LTV conducted an

investigation of this issue and in June 1985 submitted its report to the Department of Labor's Office of Pension and Welfare Benefits Administration. We intend to conduct our own investigation and verify the facts before making a determination as to whether there has been a violation of the prudence requirement of ERISA §404(a)(1)(B). LTV's report includes a detailed history of the Plan's provisions regarding lump sum benefits. Based on LTV's investigation, that history may be summarized as follows.

Republic Steel Corporation ("Republic") maintained the Plan to provide retirement benefits for certain of its salaried employees. Republic was the Plan administrator. A Pension Committee appointed by Republic's Board of Directors was in charge of day-to-day administration of the Plan. One of the enumerated powers of the Pension Committee enabled it:

> to adopt and amend from time to time, such actuarial factors, tables, assumptions and procedures to be used for the actuarial evaluations and determinations of the normal cost and actuarial requirements of the Plan as it, acting upon the advice of the Actuary, deems necessary and desirable. [Plan §9.4(f).]

The Pension Committee also had the duty "to establish, review and adjust from time to time a funding policy for the Plan which considers both the immediate and long range needs of the Plan." Since 1975, the Plan provided for unrestricted payment of lump sums to participants eligible for normal or early retirement. Lump sum payments were not available for participants with deferred vested, permanent disability or "70/80" benefits. The amount of the lump sum was calculated using the annuity purchase rate of Metropolitan Life Insurance Company at the time of the participant's retirement, as recommended by the Plan actuary.

Because of high and fluctuating interest rates prevailing in 1980 and thereafter, the amounts of lump sum benefits were reduced and subject to variation depending on the date a participant retired.

According to Republic management, this lowered employee morale and created employee demand for a fixed interest rate. Republic management worried that dissatisfaction with the rate could lead to a loss of personnel. In late 1980, Republic management began discussing the possibility of setting a fixed interest rate for payment of lump sums. These discussions continued into 1981.

In memorandum dated January 14, 1981, Republic's Director of Employee Benefits raised the issue of the harmful effect of the cash drain that could be caused by a change to a fixed rate. Republic management has stated that such a result was not of great concern at the time because Republic was reporting record earnings and the steel industry in general was prospering. They believed any cash flow problems could be handled by accelerated funding. Therefore, on September 15, 1981, the Management Development and Compensation Committee of Republic's Board of Directors decided to change from a variable to a fixed rate. On October 1, 1981, the Pension Committee adopted a fixed rate of eight percent to be used to calculate lump sum amounts under the Plan effective January 1, 1982.

The eight percent rate was chosen based on a recommendation by the Plan's Actuary. The Actuary recommended that the fixed rate match the Plan's 1981 valuation rate. Based on an informal survey conducted by the Actuary, this was the practice frequently adopted by plans that used fixed rates for lump sum cash-outs. The Actuary's recommendation was limited strictly to the appropriate fixed rate to adopt for purposes of calculating lump sums. The

Actuary expressed no opinion with respect to the appropriateness of using a fixed rather than a variable interest rate nor on the potential effect on Plan cash flow. The Pension Committee also obtained a letter from its counsel stating the opinion that changing the interest rate used to determine lump sum amounts would not violate the Pension Committee's fiduciary duty under ERISA so long as the change was adopted in accordance with the recommendation of the Plan's actuary.

By mid-1982, it was apparent that selection of the lump sum option had increased dramatically. Approximately 90 percent of retiring participants were electing the lump sum option, up from 45 percent to 50 percent in previous years. In a written explanation of this increase, Republic's Chief Financial Officer and a member of the Pension Committee attributed the change to several factors: short term money rates exceeded long term rates; retiring employees had become more financially sophisticated as a result of a national trend toward increased individual handling of investments; and the likelihood of increases in monthly benefit payments decreased with decreasing inflation, making the lump sum option more attractive. Continued use of the eight percent fixed rate was justified, according to the Chief Financial Officer, because Plan liabilities decreased with corresponding lump sum payments, the cash drain would slow in future years, the eight percent rate matched the Plan's performance over the past eight to ten years and the Plan was "more than sufficient, as measured by sound actuarial standards, to meet its obligations." The issue of potential cash flow problems was not raised.

The eight percent rate remained effective for 1982, 1983 and 1984. Lump sum payments were made in those years in the amounts of $72 million, $76 million and $77 million, respectively. Based on the Plan's 1983 Actuarial valuation, the percentage of total Plan liability covered by Plan assets decreased from 43.8 percent in 1982 to 34.2 percent in 1983. An estimated $75 to $100 million more was paid out in lump sums than would have been paid using an interest rate closer to the market rate during 1982-1984.

On June 29, 1984, LTV Corporation ("LTV") merged with Republic. The merger agreement, signed September 28, 1983, required that the eight percent interest rate assumption for calculation of lump sum benefits be retained for one year after the merger. During merger negotiations in late 1983 and continuing into 1984, LTV and Republic discussed the Plan's lump sum provisions. While LTV wished to eliminate the lump sum provision as soon as possible, Republic feared a change would cause an exodus of key Republic personnel needed to consummate the merger or to continue successful operation of Republic should the merger fail. The negotiations resulted in a Plan amendment adopted by the Republic Board of Directors on January 14, 1984, which retained the eight percent assumption for payments made through December 31, 1984, adopted a floating rate for payments made thereafter based on monthly interest rates for U.S. Treasury notes and bonds and discontinued the lump sum option for employees who did not become eligible for it on or before December 31, 1985.

By letter dated March 22, 1984, the Plan's Actuary informed Republic that based on current projections, Plan assets would be nearly depleted by September 1985. The Actuary suggested that the simplest solution to this problem would be to increase contributions to the Plan. Beginning in April 1985, LTV did accelerate contributions to the Plan; monthly contributions were made to match monthly benefit payments that were not covered by a group annuity contract. After LTV filed for bankruptcy, the company was required to obtain approval of the bankruptcy court to continue contributions. LTV decided not to seek approval, forcing PBGC to step in and terminate the plan to continue payments.

I believe that the real significance of this case is that it demonstrates once again that ERISA's minimum funding standards are inadequate. Minimum funding requirements are not determined by plan solvency -- that is, there is no requirement that plan assets always be sufficient to pay benefits as they come due. The consequence in this case was that participants who did not elect lump sums will receive reduced benefits, and the PBGC has been forced to assume responsibility for guaranteed benefits.

Please do not hesitate to contact me should you have any further questions.

Sincerely yours,

Kathleen P. Utgoff

Kathleen P. Utgoff
Executive Director

Senator METZENBAUM. I want to publicly say I appreciate your making a special trip out to Cleveland this morning and bringing your staff with you and I ask the retirees and employees to join with me in expressing our appreciation. Thank you very much.

Let me again repeat that the booklets that Ms. Utgoff brought along are out in the lobby.

I want to make a phone call to Washington just to check about my legislation and see that it is under control. I won't be gone more than 2 minutes.

[Short recess taken.]

Senator METZENBAUM. This hearing will come to order.

We have with us a final witness this morning, Jim Patton, vice-president of Blue Cross of northern Ohio. I'm very happy to welcome you. We will accept a statement from you and then we will have some questions.

STATEMENT OF JIM PATTON, VICE PRESIDENT OF BLUE CROSS OF NORTHERN OHIO

Mr. PATTON. Thank you, Senator. Ladies and gentlemen, I am Jim Patton of Blue Cross and Blue Shield. On behalf of my company and speaking for myself personally, let me begin by saying we are distressed with the situation the LTV retirees now face. Questions have been addressed to Blue Cross. Let me start by stating we recognize the retirees need for help. We are pledged to see these people have the health care coverage they so obviously need.

Let's look at the facts. LTV has self-insured their health coverage and that is that they decided to take all the risk themselves. Blue Cross is the administrator for hospitalization coverage. We process the claim and pay the hospital with LTV's money. Blue Cross is not the insurer. And that is a very big difference everyone must understand as we discuss this problem.

Senator METZENBAUM. Let's just go into this for one more moment. What you are saying, that normally when people have a relationship with Blue Cross, they pay in and they are covered for their hospitalization. As I understand your testimony, as I understand the facts, in the case of LTV, the dollars paid were LTV's and the only thing that Blue Cross did was to be administer of those costs, is that correct?

Mr. PATTON. That is correct, Senator. And I am going to expand on that in this testimony. That's a very important point that you are making because it is not like an insurance company or Blue Cross who would provide a prepaid health insurance program per LTV. And this is a very serious problem, not only for what we are experiencing here with the LTV retirees, but a problem that is going to exist much bigger than that, which this is alluding to.

Senator METZENBAUM. You also will make a distinction between coverage handled by Blue Cross with reference to hospitalization and major medical coverage and that provided by Metropolitan Life Insurance Co.

Mr. PATTON. Yes, I will.

Senator METZENBAUM. Very good.

Mr. PATTON. I might also mention that Mr. Valenta spoke about the bank that would not honor a check. Blue Cross cannot honor

LTV's insurance program unless LTV puts money into that account. It is their insurance program. And as the Senator noted, we are talking about their program and Blue Cross is not the insurer. We have already paid millions of dollars out of Blue Cross money that we haven't been reimbursed for.

Senator METZENBAUM. Can you give us an estimate as to that amount?

Mr. PATTON. I don't have the accurate figures but they are in the millions, two digits.

Senator METZENBAUM. Over $10 million——

Mr. PATTON. Over $10 million.

Senator METZENBAUM [continuing]. That Blue Cross is owed by LTV for reimbursement that hospitals heretofore paid out?

Mr. PATTON. That's correct, Senator. Another case, that is similar, is where the lady this morning that had paid in advance for coverage and now she cannot get that coverage. We totally agree that this is wrong and we recognize the problem that these people are faced with.

The point is, again, that the money went to LTV. The employee payments, their deductions, did not come to Blue Cross. We are in the same position they are in, looking for those dollars. However, if LTV were to have our contract with them approved by the Bankruptcy Court, which our attorneys have submitted to them and we were given assurance by the Bankruptcy Court that LTV claims would be paid, it would then be possible for Blue Cross to immediately act on an important conversion clause in that contract. We would be able to convert the LTV retirees existing conversion policies; no waiting period or health screening. Retiress would not miss a single day's coverage. And all their hospital bills would be honored.

The past week we have had our systems up and ready for the conversion, if it were to happen. If that contract is not honored, this crisis must be dealt with in some other fashion.

Senator METZENBAUM. Let me understand you. Blue Cross would, if the court so determined, convert the present system of reimbursement of claims made to some sort of group coverage, everybody would be covered, if the Bankruptcy Court ordered LTV to make those payments?

Mr. PATTON. That is correct, Senator. We would honor their claims.

Furthermore, I think the discussion that you and I had in Washington, where you asked if you were to introduce legislation to have LTV fund the pool and pay in advance, would Blue Cross administer that fund and honor the claims for retirees? I have referred your suggestion to our company and the president, and he fully supports what you are suggesting, the legislation that you are proposing. Blue Cross would then be responsible for administering the hospitalization portion of that fund.

Senator METZENBAUM. So that would be the same procedure that is presently taking place except instead of your paying the money and then going to LTV to collect it, you would be willing to continue the same kind of coverage that presently exists but you would ask LTV to pay and put up a pot of money in advance in order to

cover another week, 2 weeks or a month's coverage for hospitalization?

Mr. PATTON. That's correct.

Senator METZENBAUM. Where does Blue Shield fit into medical coverage?

Mr. PATTON. We are Blue Cross/Blue Shield of northern Ohio, the medical insurer. But in this instance with LTV, they elected to have Blue Cross/Blue Shield of northern Ohio provide the benefits for the hospital coverage and other insurance carriers, such as Metropolitan, are covering the doctors, the medical coverage. So we are providing the benefits for hospitals here.

Senator METZENBAUM. Thank you.

Mr. PATTON. That's an important point. Where we heard this morning that some doctor was not going to treat a retiree when he came in, that is not a case of a Blue Cross participating doctor not providing the service—we don't provide that coverage in this situation. The point is, LTV elected to have other insurance carriers provide the doctor's coverage.

Senator METZENBAUM. $54, that is what retirees pay each month for doctors and prescription coverage, not for hospitalization, is that right?

Mr. PATTON. That's correct.

Senator METZENBAUM. And that coverage is provided by Metropolitan Life Insurance Co.?

Mr. PATTON. As I understand it, Senator, yes.

Senator METZENBAUM. Thank you.

Mr. PATTON. Now, in that regard, in addition to your proposal which we wholeheartedly support in the hope that Congress would be able to enact you legislation, our company has also been looking at alternatives to avoid retirees having to be subjected to waiting periods and health screening.

To the best of our knowledge these requirements of health screening are required by all insurance companies in the State for people applying for nongroup coverage. Finding a solution for LTV retirees that will work is not an easy task and requires some background, so you fully appreciate it.

But we are dealing today solely with the problem of the LTV retirees. What has happened to them is systematic of a much greater problem that exists nationwide that we heard Congresswoman Mary Rose Oakar allude to. In fact, Jack Burry, the president of Blue Cross and Blue Shield was with me in Washington just 3 weeks ago testifying before the Subcommittee on Health of the House Ways and Means Committee. And asking for support for that legislation which includes risk pooling, Access to Health Care Act of 1986. Had we had that act in place today we would not be sitting here with the problem that the retirees are faced with. They would have had emergency coverage, which I will allude to.

Self insurance can be a very dangerous practice such as LTV had entered into with us. Here in Ohio we estimate of all people that are covered by insurance, one-third are self-insured plans by other companies. There are no State regulations to provide oversight of self-insured companies to see that they do, in fact, have the financial wherewithal to take the risks that are involved.

Today there are companies with less than 100 employees and larger companies with limited financial resources for self insuring. As it now stands, States are not able to regulate these self-insurance plans such as the LTV plan, because these plans are protected by the Federal ERISA law. This Federal law also makes risk pooling difficult because it exempts a very large percentage of the companies that are self-insured that should be contributing to a risk pool. If Ohio had such a risk pool, we would not be here today on behalf of the LTV retirees.

And that is why it is so important for Congress to look at the Access to Health Care Act in 1986 that we wholeheartedly support and testified in behalf of. Risk pooling is also needed for people with preexisting medical conditions. In Ohio high-risk people have no one who will insure them. My company, until very recently, insured everybody regardless of their health status, something that all of more than 500 commercial carriers in the State here, including some independent Blue Cross plans in Columbus and Cincinnati, were unwilling to do when we were covering the poor risk.

I suggest to you that many of the LTV retirees also have serious medical conditions. We have heard many of them this morning. The gentleman who had lost a leg, the wife whose husband has cancer. And unless some extraordinary solution is found, they are just going to be out of luck getting insurance. And that is a sad commentary that we are hearing today.

From our point of view, practices such as self insurance, health screening, waiting periods, and policies with limited benefits and coinsurance or deductible provisions are all ways to dodge the cost of health care, as such, are symptomatic of the real problem. That problem, very simply, is the cost is just too high. Fewer and fewer people can afford to pay for it and now, more and more, people can't get health coverage at any cost.

The U.S. Census Bureau has estimated that up to 35 million Americans or nearly 15 percent of the population have no health coverage today. This is the point that Congresswoman Oakar is also making reference to.

Here in Ohio, getting the cost of hospital care down was the job the State legislature decided to mandate Blue Cross to do. And if Blue Cross does not demonstrate cost containment efforts, then the State refuses Blue Cross rate hikes.

We didn't ask for the job to police hospital costs but when we tried to do this last year by instituting a hospital bid program, the judicial branch of the Government ruled that asking hospitals to bid was illegal. Why? Because the court said we must contract with all hospitals and not to contract would violate the same law that requires that we must control hospital costs. That puts us in a catch-22 position. They ask us to do it and we're damned if we do and we're damned if we don't.

Obviously, no company can control its costs if it cannot say no at the bargaining table when dealing with the suppliers. And the cost of health care just keeps going up. This is a problem that will take time to solve. But the retirees of LTV Steel need help now and we recognize that.

And again, Senator, we support what you are suggesting in the legislation that you talked to me about, along with Senator John

Glenn. So do thousands of others with preexisting medical conditions that cannot get quality medical insurance at this time who are also going to have problems.

America's health care industry from our perspective is a very serious problem. At the Federal level, the ERISA law must be changed to untie the hands of the State government. At the State level here in Ohio, the law governing how hospitals' costs are to be controlled, needs to be revamped. We need risk pooling where all insurance companies will share in the cost of these emergency cases that we see the LTV retirees experiencing today. It cannot be one insurer, Blue Cross, who, in this case, is not the insurer, LTV is the insurer. We simply pay the claims.

What the retirees of LTV Steel need, along with all other Americans who are in the same dilemma, is leadership and Government.

Senator Metzenbaum, Congressman Traficant, I know you would not be here today if you were not concerned about the problem and ready to take steps to solve it. My company is ready to help in any way that it can. We will work with you on your proposal, Senator. Our job is to insure the greatest number of people at the lowest possible cost. That is the Blue Cross mission. We are going to do our best to help the retirees at LTV. Thank you.

Senator METZENBAUM. Let me see if I can recapitulate a little bit. Blue Cross would be willing to continue the coverage, I think if I understand it, in one of three ways. One, is the proposal I made where they put up money in advance to cover whatever the charges are instead of doing it the present way where you bill them after the fact, this would be putting up the money in advance?

Mr. PATTON. That is correct.

Senator METZENBAUM. The second way, as you indicated, is if there were a court order ordering LTV to pay the bills on a current basis, that would be acceptable to Blue Cross?

Mr. PATTON. That is correct.

Senator METZENBAUM. Now, the third way we talked about the other day, and I'm not sure whether I understand you correctly, and that is, if those two procedures don't work, the matter of providing coverage on an individual basis to the retirees. And then I thought I heard you say something today that I didn't hear the other day and that is that you would have to have prescreening of the individuals in order to do that.

Since they are covered at the present time, why would you need prescreening?

Mr. PATTON. What I am saying is that if we continue their coverage as LTV retirees, they would not need any prescreening. Under your program, if they do not continue and your legislation passed, we would also cover them without prescreening.

Senator METZENBAUM. Even without legislation, Jimmy, if the company is able to come along and say, "Look, here's $1 million, $3 million, whatever the figure is." Now, we are only talking about the retirees in all of this discussion because the present employees are covered without any question of their being paid for, is that correct?

Mr. PATTON. As I understand. I haven't seen any court order on it, but what was told to us in Washington Friday by the Metropolitan people, that's their understanding. That's my understanding.

Senator METZENBAUM. Those employees who are working, according to, I think, to Lynn Williams this morning, LTV is covering the people who are working, but the main issue has to do with the retirees?

Mr. PATTON. That is correct.

Senator METZENBAUM. Now, instead of needing legislation, let's assume that Mr. David Hoag, president of LTV, says to you, "Look, your bills are running about $2 million a month. We will deposit $2 million with you in escrow and either supplement that or get a credit for it if it's an overage and continue this coverage for the retirees." Would that be acceptable to Blue Cross?

Mr. PATTON. That would be, yes.

Senator METZENBAUM. Without legislation?

Mr. PATTON. Yes, sir.

Senator METZENBAUM. And if neither of those plans, either court order or my plan works out, then if the employees have no alternative but to pay for it themselves if they want it—we asked you in Senator Glenn's office the other day, we asked you whether or not you would be willing to provide them with the group rate rather than the individual rate which is substantially higher.

Do you have an answer on that, sir?

Mr. PATTON. Our actuaries are looking at that right now. Our president feels that we would be able to work out a program for them.

Senator METZENBAUM. Without going to the individual rate?

Mr. PATTON. That's correct.

Senator METZENBAUM. Well, I hope so. I want the retirees to understand what we are talking about. What would you guess, just off the cuff, is the difference between the group rate and the individual rate, 60 percent higher, 80 percent higher, 20 percent higher?

Mr. PATTON. I would be guessing. It would be very, very difficult to do it because I don't know their experiences.

Senator METZENBAUM. All right.

Mr. PATTON. I might make one point on what you said, Senator, which is a very important one. To avoid the problem that the LTV retirees are experiencing today, it is necessary to set up a program, an insured program, where Blue Cross is being paid a prepaid insurance, then the LTV's employees liability would be on Blue Cross and they would be assured of their coverage. Today, LTV is the insurer. All they asked us—what they are asking us to do is administer the claims. But if it was a prepaid insurance program then they would not have——

Senator METZENBAUM. They have no liability, it would be a fixed sum? Period.

Mr. PATTON. That's right.

Senator METZENBAUM. To date, do you feel that LTV has breached its contract with you?

Mr. PATTON. Well, if we do not have the claims paid, yes.

Senator METZENBAUM. If they don't pay the bill, it's a breach of contract?

Mr. PATTON. It's a breach of contract, that's right.

Senator METZENBAUM. Has Blue Cross been meeting with LTV to try to work out some alternate coverage for retirees?

Mr. PATTON. Yes, we have, Senator. And we have our attorneys in New York meeting with them today and our actuary people are meeting with the LTV people here in Cleveland. We are trying to do everything we can to avoid this problem for the retirees.

Senator METZENBAUM. Congressman Traficant.

Mr. TRAFICANT. Yes, I had some points I'd like to make and a couple of questions, briefly.

Has Blue Cross ever filed any action against LTV for nonpayment in regards to your administrative claims? You said you are on the hook for several million dollars. Have you ever filed an official action against the company?

Mr. PATTON. Our attorneys are looking at that now. They are discussing what our action should be.

Mr. TRAFICANT. But none ever in the past, to your knowledge?

Mr. PATTON. Not to my knowledge, with LTV.

Mr. TRAFICANT. You talk about the proposal if the money was paid in advance, you would insure the continued coverage. Isn't it a fact that if LTV would have paid that and would have carried on with their program, there would be no need for this new proposal?

Mr. PATTON. That's correct, Congressman.

Mr. TRAFICANT. Do you know or do you have, relative to the stability factor of LTV, do you have any knowledge of any reinsurance or coinsurance that LTV may have on their own self-insurance program?

Mr. PATTON. I'm not aware of it. I have no knowledge of it.

Mr. TRAFICANT. Relative to the risk that you were undertaking, did you ever see fit to have any coinsurance or reinsurance or any type of insurance to protect you against loss in the event of default?

Mr. PATTON. Yes, we have reserves for that purpose.

Mr. TRAFICANT. They are your reserves?

Mr. PATTON. They are our reserves. There again, if they would have contracted with us as an insurer rather than LTV being the insurer, there would have been no problem in paying for these claims. We would have covered it under our reserves.

Mr. TRAFICANT. Let me clarify for my own sake. Had Blue Cross—at any time recognizing the financial problems of this corporation and perhaps being confronted with a situation where they may be on the hook for having extended money without renumeration of the corporation—ever had or did you ever engage in a process of attempting to get reinsurance or insurance to protect you from such liability?

Mr. PATTON. We had no knowledge of this problem until July 17 when LTV notified us they were no longer going to honor their claims.

Mr. TRAFICANT. To your knowledge, you don't know if LTV has ever had any specific coinsurance or reinsurance?

Mr. PATTON. To my knowledge, no.

Mr. TRAFICANT. Would you have access to such knowledge due to the fact that you administrate the claims, as such?

Mr. PATTON. Not necessarily so because they contract with other health insurance carriers and they don't provide us with a contract agreement of what type of coverage they are providing.

Mr. TRAFICANT. I have one more point. But before I do, I would recommend, Mr. Chairman, perhaps under the Freedom of Information Act or whatever sources are available to you, to see if LTV has ever engaged in or if they do have any coinsurance or reinsurance relative to a self-insured plan.

My last point, just real brief, and I don't mean to get off the subject. I ask for the briefest response you might have. What is the position, at least in your opinion, of a national health plan and these types of phenomenas that exist in which our seniors are being left out in the cold without health insurance, what would be Blue Cross's position? Some sort of an organized type of participatory national health plan to make sure that this does not ever happen again?

Mr. PATTON. We have addressed this question many, many times and we certainly do not see a need for a national health insurance program. We feel that through the private sector the United States of America has the best health care program of any country in the world and by keeping it and administered the way it is, it will continue to provide that.

However, tragedies like this that we have seen today, is not the kind of thing that Blue Cross wants to see or be a part of because it does raise the question of national health insurance programs. And we feel there is a solution that we can work with the government, as Senator Metzenbaum proposed. They have legislation that would find solutions for this problem.

Mr. TRAFICANT. I would just close by saying it's a tough position for you being here today, some of the dynamics that surround these cases. I give you a lot of credit for your testimony.

However, the only area that I would disagree is that 10 of the top 12 steel companies and its crisis and many other people facing the problems they have, I think the insurance industry, as we see it, is not meeting those needs. Something must be done about it. I would hope that there would be that type of leadership and sensitivity and cooperation with the industry itself to make sure we have one that doesn't perhaps overstep what we have now but utilizes it and assures that it will never happen again.

Chairman Metzenbaum.

Senator METZENBAUM. As I indicated earlier there were others who wished to testify. And we are very grateful for Mr. Patton for being with us and being the Blue Cross representative here.

I have a statement here from the Governor which we will insert into the record. I am also pleased to note that the former mayor of the city of Cleveland, Dennis Kucinich, has been with us throughout this entire hearing. I'm sorry that we aren't able to give him and some of the others time to testify. But I am very happy to welcome him and appreciate his interest and concern about this matter.

[Statement on behalf of Governor Celeste follows:]

OHIO BUREAU OF EMPLOYMENT SERVICES

145 South Front Street
P.O. Box 1618
Columbus, Ohio 43216

Richard F. Celeste
Governor

Dr. Roberta Steinbacher
Administrator

STATEMENT ON BEHALF OF GOVERNOR RICHARD F. CELESTE

JULY 28, 1986

I AM ROBERTA STEINBACHER, ADMINISTRATOR OF THE OHIO BUREAU OF EMPLOYMENT SERVICES. GOVERNOR CELESTE IS UNABLE TO BE HERE THIS MORNING AND ASKED ME TO REPRESENT HIM.

THE CELESTE ADMINISTPATION WHOLEHEARTEDLY ENDORSES THE LEGISLATION INTRODUCED BY SENATOR METZENBAUM TO RESTORE THE MEDICAL AND LIFE INSURANCE BENEFITS OF LTV RETIREES. THERE IS NO QUESTION THAT PROTECTING THE BENEFITS OF THE RETIREES AND THE JOBS OF THE CURRENT LTV WORKFORCE ARE THE TOP PRIORITIES FOR THE STATE OF OHIO. WE ARE PROUD TO JOIN SENATOR METZENBAUM IN THIS ACTION AND APPLAUD HIS INITIATIVE.

AS GOVERNOR CELESTE SAID LAST WEEK, THE BANKRUPTCY FILING BY LTV HAS CLOUDED THE FUTURE OF 122,000 LTV WORKERS, RETIREES AND DEPENDENTS IN OHIO. ALL OHIOANS WANT TO SEE LTV COME OUT OF REORGANIZATION A STRONGER COMPANY, PROTECTING JOBS IN CLEVELAND, WARREN, MASSILLON, ELYRIA, CANTON, AND YOUNGSTOWN.

IMMEDIATELY AFTER THE FILING, GOVERNOR CELESTE APPOINTED A CABINET LEVEL TASK FORCE TO MONITOR THE LTV SITUATION AND TO DEVELOP AN AGGRESSIVE ROLE FOR THE STATE IN THIS CRISIS. THE TASK FORCE IS CHAIRED BY THE DIRECTOR OF DEVELOPMENT, "DOC" PAWLICKI. IN ADDITION TO MYSELF, IT INCLUDES THE HEADS OF THE FOLLOWING AGENCIES: TAX, OHIO EPA, THE PUBLIC UTILITIES COMMISSION, INSURANCE, WORKERS COMPENSATION, AND THE OHIO INDUSTRIAL COMMISSION.

A NUMBER OF ACTIONS HAVE ALREADY BEEN TAKEN BY THE GOVERNOR. LAST TUESDAY, LEONARD LANCASTER, CHAIRPERSON OF THE INDUSTRIAL COMMISSION, MET WITH LTV OFFICIALS. AFTER THEIR DISCUSSIONS, IN ORDER TO RETAIN ITS STATUS AS A SELF-INSURED COMPANY, LTV AGREED TO RESUME WORKERS COMPENSATION PAYMENTS WHICH HAD BEEN SUSPENDED.

INSURANCE DIRECTOR GEORGE FABE HAS BEEN ACTIVELY INVOLVED WITH BOTH LTV AND BLUE CROSS-BLUE SHIELD TO ADDRESS THE HEALTH AND LIFE INSURANCE CRISIS.

REPRESENTATIVES OF GOVERNOR CELESTE HAVE BEEN IN FREQUENT CONTACT WITH COMPANY OFFICIALS AND WITH THE LEADERSHIP OF THE UNITED STEELWORKERS OF AMERICA.

AT THE GOVERNOR'S DIRECTION, WE ARE ORGANIZING AN OHIO LTV SUMMIT MEETING WHICH WILL BE HELD IN CLEVELAND IN THE VERY NEAR FUTURE. INVITED PARTICIPANTS WILL INCLUDE UNION AND COMPANY REPRESENTATIVES, MEMBERS OF CONGRESS, AND LOCAL OFFICIALS FROM AFFECTED COMMUNITIES. THE SUMMIT MEETING WILL HAVE TWO OBJECTIVES:

---FIRST, TO INSURE THAT EVERYONE HAS A COMPLETE UNDERSTANDING OF THE COMPLEX ISSUES INVOLVED IN THE LTV BANKRUPTCY FILING AND THE PROCEDURE INVOLVED IN THE REORGANIZATION OF THE COMPANY.

---SECOND, TO BEGIN TO DEVELOP A STRATEGY TO MITIGATE ANY POTENTIAL IMPACT OF THE REORGANIZATION ON OHIO'S COMMUNITIES.

OVER THE COMING MONTHS, GOVERNOR CELESTE INTENDS TO PLAY AN ACTIVE ROLE IN DETERMINING LTV'S FUTURE IN OHIO. THE RESPONSIBILITY OF STATE GOVERNMENT IN THIS CRISIS IS TO REPRESENT THE INTERESTS OF ALL OHIO CITIZENS AND COMMUNITIES. THE DECISION MADE IN DALLAS TO FILE THE LARGEST BANKRUPTCY IN THE NATION'S HISTORY HAS SERIOUS IMPLICATIONS FOR OHIO.

MOST OBVIOUS IS THE HUMAN SUFFERING ALREADY CAUSED BY THE SUSPENSION OF HEALTH AND LIFE INSURANCE BENEFITS. THOUSANDS OF OHIOANS GAVE THEIR SKILLS, THEIR ENERGY, THEIR TIME, AND THEIR WORKING LIVES TO BUILD AND OPERATE THE STEEL INDUSTRY. MANY OF THEM WERE INJURED IN THAT EFFORT, AND SOME WERE EVEN KILLED. THE ONE THING THEY HAD COME TO BELIEVE THEY COULD COUNT ON WAS A SECURE PENSION PLAN WITH LIFE AND HEALTH INSURANCE BENEFITS. IT IS ESSENTIAL THAT THE WELFARE OF THESE PEOPLE BE PROTECTED AND THEIR RIGHTS RESTORED.

BUT THE STATE AS A WHOLE ALSO HAS A SIGNIFICANT INTEREST IN THE RESOLUTION OF THIS CRISIS. WE BELIEVE THAT THE STATE OF OHIO IS, IN FACT, A MAJOR CREDITOR OF LTV. THE GOVERNOR'S TASK FORCE IS IN THE PROCESS OF PULLING EXACT FIGURES TOGETHER, BUT WE CAN

BEGIN TO OUTLINE THE GROUPS AFFECTED AND THE RESOURCES THREATENED BY THIS BANKRUPTCY. THEY INCLUDE:

---OHIO BASED LTV CREDITORS, INCLUDING OHIO BANKS WITH OVER $81.5 MILLION IN OUTSTANDING LOANS AND AN ADDITIONAL $27 MILLION IN LETTERS OF CREDIT.

---ROUGHLY 17,000 ACTIVE EMPLOYEES, THOUSANDS ON LAYOFF, AND OVER 30,000 RETIREES--ALL OF WHOM PAY TAXES AND BUY GOODS AND SERVICES IN OHIO.

---STATE AND LOCAL GOVERNMENTS AND LOCAL SCHOOL SYSTEMS WHICH DEPEND ON TAX REVENUE FROM LTV AND ITS EMPLOYEES FOR OPERATING BUDGETS.

---OHIO BASED LTV SUPPLIERS AND THEIR EMPLOYEES.

THE POTENTIAL IMPACT ON OHIO IS ENORMOUS.

BUT THIS CRISIS IS NOT ONE THAT CAN BE SOLVED AT THE STATE LEVEL. AS THE CURRENT BUSINESS WEEK POINTS OUT, BANKRUPTCY IS NOT A LONG RUN SOLUTION FOR THE AMERICAN STEEL INDUSTRY.

THE DECISION BY LTV, WITH ITS 65 SUBSIDIARIES, 56,000 WORKERS AND 78,000 RETIREES, TO FILE FOR CHAPTER 11 RAISES SERIOUS ISSUES WHICH CAN ONLY BE ADDRESSED AT THE NATIONAL LEVEL.

LTV'S $2 BILLION UNFUNDED PENSION LIABILITY IS THE TIP OF AN ICEBERG---THE UNFUNDED PENSION LIABILITY CRISIS EXISTS THROUGHOUT THE STEEL INDUSTRY AND IN OTHER SECTORS OF THE ECONOMY AS WELL. IT HAS BEEN EXACERBATED BY THE TREND OF MERGERS OF CORPORATE GIANTS. THE FEDERAL PENSION BENEFIT GUARANTY CORPORATION WILL BE HARD PRESSED TO MEET THE DEMANDS OF THE LTV LIABILITY. WILL THE PUBLIC SECTOR BE FORCED TO PICK UP THE COST OF PENSION PLAN AFTER PENSION PLAN? WILL THE PENSION BENEFIT GUARANTY CORPORATION CONTINUE TO OCCUPY ITS TRADITIONAL PLACE AT THE END OF THE LINE OF CREDITORS IN BANKRUPTCY PROCEEDINGS?

THE AMERICAN STEEL INDUSTRY CONTINUES TO BE HAMPERED BY INADEQUATE MONETARY POLICY AND THE INABILITY OF THE REAGAN ADMINISTRATION TO DEVELOP A CONSISTENT AND PRAGMATIC TRADE POLICY. WHEN WILL THE FEDERAL GOVERNMENT GIVE ADEQUATE ATTENTION TO THE ISSUES OF DESTRUCTIVE IMPORTS AND DOMESTIC CONTENT?

WHAT WILL THE IMPACT OF LTV'S REORGANIZATION BE ON THE REST OF THE INDUSTRY? DESPITE THE CLOSINGS OF RECENT YEARS, AND THE TENS OF THOUSANDS OF LAYOFFS, THE AMERICAN STEEL INDUSTRY IS STILL OPERATING AT NO MORE THAN TWO-THIRDS CAPACITY. WHERE IS THE NATIONAL POLICY REQUIRED REQUIRED TO ADDRESS THIS CRISIS?

THESE QUESTIONS CANNOT BE ANSWERED QUICKLY OR CARELESSLY. BUT IF THE REAGAN ADMINISTRATION CONTINUES TO IGNORE THEM, WE WILL BE FACED WITH A STRING OF BANKRUPTCIES WHICH WILL DEVASTATE OUR COMMUNITIES. OHIO HAS WORKED HARD TO FASHION ITS OWN RECOVERY. THE CELESTE ADMINISTRATION WILL DO EVERYTHING IN ITS POWER TO PROTECT THE PROGRESS WE HAVE MADE.

IN CLOSING, WE AGREE WITH SENATOR METZENBAUM THAT OUR FIRST ACTIONS MUST PROTECT THE INNOCENT VICTIMS OF THIS ECONOMIC CRISIS. GOVERNOR CELESTE WILL CONTINUE TO WORK TO SEE THAT THE NEEDS OF LTV'S RETIREES ARE MET. WE LOOK FORWARD TO WORKING WITH THE SENATOR AND HIS STAFF ON THIS IMPORTANT LEGISLATION.

THANK YOU.

Senator METZENBAUM. In concluding this hearing, I want to say that——

Mr. TRAFICANT. Will you yield just briefly, Senator? I would ask, in addition to that, that any official of the State of Ohio or anyone that is cognizant of this particular hearing and may have a statement they would like to submit, that it be so included in the record?

Senator METZENBAUM. It will be.

Mr. TRAFICANT. And I would also like to say, in closing, just briefly, that I will be offering legislation to put a penalty on the existing law in the event that it is found that LTV has literally broken the law, that particular section 1113, subsection F. If it goes without penalty, I will attempt legislative means to address it in the form of a penalty in the event there was clear intent to injure these retirees.

Thank you.

Senator METZENBAUM. And I want to thank the presidents of the two unions who came from distant points to be with us today, Frank Valenta, the district director and Vern Countryman came all the way from Boston to be with us and Kathy Utgoff from Washington and several Congressmen who were with us today.

But in addition, I want to say that you don't put a hearing of this kind together overnight and get people to come in to testify without a lot of people doing a lot of work, morning, noon, and night. I want to publicly thank my staff, David Starr, Ellen Bloom, James Wagoner, and Eugene Cottilli for all of the hours they put in. Because we only started to go on this hearing as of Friday morning and they have been working up until midnight last night, I know that because they didn't leave my home until after 11. And I know they were up early this morning preparing for this hearing and I'm grateful to all of them.

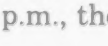
And I also want to thank Candy Korn also who has been very helpful on my Cleveland staff, along with Roz Disbro.

Last but not least, I want to thank the retirees, all of those who have been with us and sat so patiently throughout this hearing. We are very, very grateful to you. I must say that it was as good a hearing as I have participated in and say it immodestly, it was a productive hearing. It couldn't have been possible without you.

The meeting stands adjourned.

Mr. VALENTA. I think the Senator left an individual out, don't you? And that's Senator Metzenbaum. Let's give him a hand.

[Whereupon, at 12:50 p.m., the hearing was adjourned.]



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